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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 1, 1890,

PRECEDED BY A

LIST OF PAPERS, WITH SYNOPSES OF THEIR CONTENTS, AND FOLLOWED
BY AN ALPHABETICAL INDEX OF SUBJECTS.



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MESSAGE.

To the Senate and House of Representatives:

The reports of the several Executive Departments which will be laid before Congress in the usual course will exhibit in detail the operations of the Government for the last fiscal year. Only the more important incidents and results, and chiefly such as may be the foundation of the recommendations I shall submit, will be referred to in this annual message.

The vast and increasing business of the Government has been transacted by the several Departments during the year with faithfulness, energy, and success. The revenues, amounting to above four hundred and fifty million dollars, have been collected and disbursed without revealing, so far as I can ascertain, a single case of defalcation or embezzlement. An earnest effort has been made to stimulate a sense of responsibility and public duty in all officers and employes of every grade, and the work done by them has almost wholly escaped unfavorable criticism. I speak of these matters with freedom because the credit of this good work is not mine, but is shared by the heads of the several Departments with the great body of faithful officers and employes who serve under them. The closest scrutiny of Congress is invited to all the methods of administration and to every item of expenditure.

The friendly relations of our country with the nations of Europe and of the East have been undisturbed, while the ties of good will and common interest that bind us to the States of the Western Hemisphere have been notably strengthened by the Conference held in this capital to consider measures for the general welfare. Pursuant to the invitation authorized by Congress, the representatives of every independent State of the American Continent and of Hayti met in Conference in this capital in October, 1889, and continued in session until the 19th of last April. This important convocation marks a most interesting and influential epoch in the history of the Western

The Nicaragua Canal project, under the control of our citizens, is making most encouraging progress, all the preliminary conditions and initial operations having been accomplished within the prescribed time.

During the past year negotiations have been renewed for the settlement of the claims of American citizens against the Government of Chili, principally growing out of the late war with Peru. The reports from our minister at Santiago warrant the expectation of an early and satisfactory adjustment.

Our relations with China, which have for several years occupied so important a place in our diplomatic history, have called for careful consideration and have been the subject of much correspondence.

The communications of the Chinese Minister have brought into view the whole subject of our conventional relations with his country; and at the same time this Government, through its legation at Peking, has sought to arrange various matters and complaints touching the interests and protection of our citizens in China.

In pursuance of the concurrent resolution of October 1, 1890, I have proposed to the Governments of Mexico and Great Britain to consider a conventional regulation of the passage of Chinese laborers across our southern and northern frontiers.

On the 22d day of August last Sir Edmund Monson, the arbitrator selected under the treaty of December 6, 1888, rendered an award to the effect that no compensation was due from the Danish Government to the United States on account of what is commonly known as the Carlos Butterfield claim.

Our relations with the French Republic continue to be cordial. Our representative at that court has very diligently urged the removal of the restrictions imposed upon our meat products, and it is believed that substantial progress has been made towards a just settlement.

The Samoan treaty, signed last year at Berlin by the representatives of the United States, Germany, and Great Britain, after due ratification and exchange has begun to produce salutary effects. The formation of the government agreed upon will soon replace the disorder of the past by a stable administration, alike just to the natives and equitable to the three powers most concerned in trade and intercourse with the Samoan Islands. The chief justice has

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been chosen by the King of Sweden and Norway, on the invitation of the three powers, and will soon be installed. The land commission and the municipal council are in process of organization. A rational and evenly distributed scheme of taxation, both municipal and upon imports, is in operation. Malietoa is respected as King.

The new treaty of extradition with Great Britain, after due ratification, was proclaimed on the 25th of last March. Its beneficial working is already apparent.

The difference between the two Governments touching the fur-seal question in the Behring Sea is not yet adjusted, as will be seen by the correspondence which will soon be laid before Congress. The offer to submit the question to arbitration, as proposed by Her Majesty's Government, has not been accepted, for the reason that the form of submission proposed is not thought to be calculated to assure a conclusion satisfactory to either party. It is sincerely hoped that before the opening of another sealing season some arrangement may be effected which will assure to the United States a property right, derived from Russia, which was not disregarded by any nation for more than eighty years preceding the outbreak of the existing trouble.

In the tariff act a wrong was done to the Kingdom of Hawaii which I am bound to presume was wholly unintentional. Duties were levied on certain commodities which are included in the reciprocity treaty now existing between the United States and the Kingdom of Hawaii, without indicating the necessary exception in favor of that kingdom. I hope Congress will repair what might otherwise seem to be a breach of faith on the part of this Government.

An award in favor of the United States in the matter of the claim of Mr. Van Bokkelen against Hayti was rendered on the 4th of December, 1888, but owing to disorders then and afterwards prevailing in Hayti the terms of payment were not observed. A new agreement as to the time of payment has been approved and is now in force. Other just claims of citizens of the United States for redress of wrongs suffered during the late political conflict in Hayti will, it is hoped, speedily yield to friendly treatment.

Propositions for the amendment of the treaty of extradition between the United States and Italy are now under consideration.

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MESSAGE OF THE PRESIDENT.

You will be asked to provide the means of accepting the invitation of the Italian Government to take part in an approaching conference to consider the adoption of a universal prime meridian from which to reckon longitude and time. As this proposal follows in the track of the reform sought to be initiated by the Meridian Conference of Washington, held on the invitation of this Government, the United States should manifest a friendly interest in the Italian proposal.

In this connection I may refer with approval to the suggestion of my predecessors, that standing provision be made for accepting, whenever deemed advisable, the frequent invitations of foreign governments to share in conferences looking to the advancement of international reforms in regard to science, sanitation, commercial laws and procedure, and other matters affecting the intercourse and progress of modern communities.

In the summer of 1889 an incident occurred which for some time threatened to interrupt the cordiality of our relations with the Government of Portugal. That Government seized the Delagoa Bay Railway, which was constructed under a concession granted to an American citizen, and at the same time annulled the charter. The concessionary, who had embarked his fortune in the enterprise, having exhausted other means of redress, was compelled to invoke the protection of his Government. Our representations, made coincidentally with those of the British Government, whose subjects were also largely interested, happily resulted in the recognition by Portugal of the propriety of submitting the claim for indemnity, growing out of its action, to arbitration. This plan of settlement having been agreed upon, the interested powers readily concurred in the proposal to submit the case to the judgment of three eminent jurists, to be designated by the President of the Swiss Republic, who, upon the joint invitation of the Governments of the United States, Great Britain, and Portugal, has selected persons well qualified for the task before them.

The revision of our treaty relations with the Empire of Japan has continued to be the subject of consideration and of correspondence. The questions involved are both grave and delicate; and, while it will be my duty to see that the interests of the United States are not by any changes exposed to undue discrimination, I sincerely hope that such revision as will satisfy the legitimate expectations of the Japanese Government, and maintain the present and long existing friendly relations between Japan and the United States, will be effected.

The friendship between our country and Mexico, born of close neighborhood and strengthened by many considerations of intimate intercourse and reciprocal interest, has never been more conspicuous than now, nor more hopeful of increased benefit to both nations. The intercourse of the two countries by rail, already great, is making constant growth. The established lines, and those recently projected, add to the intimacy of traffic and open new channels of access to fresh areas of demand and supply. The importance of the Mexican railway system will be further enhanced, to a degree almost impossible to forecast, if it should become a link in the projected Intercontinental Railway. I recommend that our mission in the City of Mexico be raised to the first class.

The cordial character of our relations with Spain warrants the hope that by the continuance of methods of friendly negotiation much may be accomplished in the direction of an adjustment of pending questions and of the increase of our trade. The extent and development of our trade with the island of Cuba invest the commercial relations of the United States and Spain with a peculiar importance. It is not doubted that a special arrangement in regard to commerce, based upon the reciprocity provision of the recent tariff act, would operate most beneficially for both Governments. This subject is now receiving attention.

The restoration of the remains of John Ericsson to Sweden afforded a gratifying occasion to honor the memory of the great inventor, to whose genius our country owes so much, and to bear witness to the unbroken friendship which has existed between the land which bore him and our own, which claimed him as a citizen.

On the 2d of September last the Commission appointed to revise the proceedings of the Commission under the Claims Convention between the United States and Venezuela of 1866 brought its labors to a close within the period fixed for that purpose. The proceedings of the late Commission were characterized by a spirit of impartiality and a high sense of justice, and an incident which was for many years the subject of discussion between the two Governments has been disposed of in a manner alike honorable and satisfactory to both parties. For the settlement of the claim of the Venezuela Steam Transportation Company, which was the subject of a joint resolution adopted at the last session of Congress, negotiations are still in progress, and their early conclusion is anticipated.

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The legislation of the past few years has evinced on the part of Congress a growing realization of the importance of the consular service in fostering our commercial relations abroad and in protecting the domestic revenues. As the scope of operations expands, increased provision must be made to keep up the essential standard of efficiency. The necessity of some adequate measure of supervision and inspection has been so often presented that I need only commend the subject to your attention.

The revenues of the Government from all sources for the fiscal year ending June 30, 1890, were \$463,963,080.55, and the total expenditures for the same period were \$358,618,584.52. The postal receipts have not heretofore been included in the statement of these aggregates; and for the purpose of comparison the sum of \$60,882,097.92 should be deducted from both sides of the account. The surplus for the year, including the amount applied to the sinking fund, was \$105,344,496.03. The receipts for 1890 were \$16,030,923.79 and the expenditures \$15,739,871 in excess of those of 1889. The customs receipts increased \$5,835,842.88 and the receipts from internal revenue \$11,725,191.89, while, on the side of expenditures, that for pensions was \$19,312,075.96 in excess of the preceding year.

The Treasury statement for the current fiscal year, partly actual and partly estimated, is as follows: Receipts from all sources, \$406,000,000; total expenditures, \$354,000,000, leaving a surplus of \$52,000,000—not taking the postal receipts into the account on either side. The loss of revenue from customs for the last quarter is estimated at \$25,000,000, but from this is deducted a gain of about \$16,000,000, realized during the first four months of the year.

For the year 1892 the total estimated receipts are \$373,000,000 and the estimated expenditures \$357,852,209.42, leaving an estimated surplus of \$15,147,790.58, which, with a cash balance of \$52,000,000 at the beginning of the year, will give \$67,147,790.58 as the sum available for the redemption of outstanding bonds or other uses. The estimates of receipts and expenditures for the Post-Office Department, being equal, are not included in this statement on either side.

The act "directing the purchase of silver bullion and the issue of Treasury notes thereon," approved July 14, 1890, has been administered by the Secretary of the Treasury with an earnest purpose to get into circulation at the earliest possible dates the full monthly amounts of Treasury notes contemplated by its provisions and at

the same time to give to the market for silver bullion such support as the law contemplates. The recent depreciation in the price of silver has been observed with regret. The rapid rise in price which anticipated and followed the passage of the act was influenced in some degree by speculation, and the recent reaction is in part the result of the same cause and in part of the recent monetary disturbances. Some months of further trial will be necessary to determine the permanent effect of the recent legislation upon silver values, but it is gratifying to know that the increased circulation secured by the act has exerted and will continue to exert a most beneficial influence upon business and upon general values.

While it has not been thought best to renew formally the suggestion of an international conference looking to an agreement touching the full use of silver for coinage at a uniform ratio, care has been taken to observe closely any change in the situation abroad, and no favorable opportunity will be lost to promote a result which it is confidently believed would confer very large benefits upon the commerce of the world.

The recent monetary disturbances in England are not unlikely to suggest a re-examination of opinions upon this subject. Our very large supply of gold will, if not lost by impulsive legislation in the supposed interest of silver, give us a position of advantage in promoting a permanent and safe international agreement for the free use of silver as a coin metal.

The efforts of the Secretary to increase the volume of money in circulation by keeping down the Treasury surplus to the lowest practicable limit have been unremitting and in a very high degree successful. The tables presented by him, showing the increase of money in circulation during the last two decades, and especially the table showing the increase during the nineteen months he has administered the affairs of the Department, are interesting and instructive. The increase of money in circulation during the nineteen months has been in the aggregate \$93,866,813, or about \$1.50 per capita, and of this increase only \$7,100,000 was due to the recent silver legislation. That this substantial and needed aid given to commerce resulted in an enormous reduction of the public debt and of the annual interest charge is matter of increased satisfaction. There have been purchased and redeemed since March 4, 1889, 4 and 4½ per cent. bonds to the amount of \$211,832,450, at a cost of \$246,620,741, resulting in the reduction of the annual interest charge of \$8,967,609 and a total saving of interest of \$51,576,706.

I notice with great pleasure the statement of the Secretary that the receipts from internal revenue have increased during the last fiscal year nearly \$12,000,000 and that the cost of collecting this larger revenue was less by \$90,617 than for the same purpose in the preceding year. The percentage of cost of collecting the customs revenue was less for the last fiscal year than ever before.

The Customs Administration Board provided for by the act of June 10, 1890, was selected with great care and is composed in part of men whose previous experience in the administration of the old customs regulations had made them familiar with the evils to be remedied, and in part of men whose legal and judicial acquirements and experience seemed to fit them for the work of interpreting and applying the new statute. The chief aim of the law is to secure honest valuations of all dutiable merchandise and to make these valuations uniform at all our ports of entry. It had been made manifest by a Congressional investigation that a system of undervaluation had been long in use by certain classes of importers, resulting not only in a great loss of revenue, but in a most intolerable discrimination against honesty. It is not seen how this legislation, when it is understood, can be regarded by the citizens of any country having commercial dealings with us as unfriendly. If any duty is supposed to be excessive let the complaint be lodged there. It will surely not be claimed by any well-disposed people that a remedy may be sought and allowed in a system of quasi smuggling.

The report of the Secretary of War exhibits several gratifying results attained during the year by wise and unostentatious methods. The percentage of desertions from the Army (an evil for which both Congress and the Department have long been seeking a remedy) has been reduced during the past year 24 per cent., and for the months of August and September, during which time the favorable effects of the act of June 16 were felt, 33 per cent. as compared with the same months of 1889.

The results attained by a reorganization and consolidation of the divisions having charge of the hospital and service records of the volunteer soldiers are very remarkable. This change was effected in July, 1889, and at that time there were 40,654 cases awaiting attention, more than half of these being calls from the Pension Office for information necessary to the adjudication of pension claims. On the 30th day of June last, though over three hundred thousand new calls had come in, there was not a single case that had not been examined and answered.

I concur in the recommendations of the Secretary that adequate and regular appropriations be continued for coast-defense works and ordnance. Plans have been practically agreed upon, and there can be no good reason for delaying the execution of them; while the defenseless state of our great seaports furnishes an urgent reason for wise expedition.

The encouragement that has been extended to the militia of the States, generally and most appropriately designated the "National Guard," should be continued and enlarged. These military organizations constitute, in a large sense, the Army of the United States, while about five-sixths of the annual cost of their maintenance is defrayed by the States.

The report of the Attorney-General is under the law submitted directly to Congress, but as the Department of Justice is one of the Executive Departments some reference to the work done is appropriate here.

A vigorous and, in the main, an effective effort has been made to bring to trial and punishment all violators of the laws; but, at the same time, care has been taken that frivolous and technical offenses should not be used to swell the fees of officers or to harass well-disposed citizens. Especial attention is called to the facts connected with the prosecution of violations of the election laws, and of offenses against United States officers. The number of convictions secured, very many of them upon pleas of guilty, will, it is hoped, have a salutary restraining influence. There have been several cases where postmasters appointed by me have been subjected to violent interference in the discharge of their official duties and to persecutions and personal violence of the most extreme character. Some of these cases have been dealt with through the Department of Justice, and in some cases the post-offices have been abolished or suspended. I have directed the Postmaster-General to pursue this course in all cases where other efforts failed to secure for any postmaster, not himself in fault, an opportunity peacefully to exercise the duties of his office. But such action will not supplant the efforts of the Department of Justice to bring the particular offenders to punishment.

The vacation by judicial decrees of fraudulent certificates of naturalization, upon bills in equity filed by the Attorney-General in the circuit court of the United States, is a new application of a familiar equity jurisdiction. Nearly one hundred such decrees have been taken during the year, the evidence disclosing that a very large number of fraudulent certificates of naturalization have been issued. And in this connection I beg to renew my recommendation that the

laws be so amended as to require a more full and searching inquiry into all the facts necessary to naturalization before any certificates are granted. It certainly is not too much to require that an application for American citizenship shall be heard with as much care and recorded with as much formality as are given to cases involving the pettiest property right.

At the last session I returned, without my approval, a bill entitled "An act to prohibit book-making and pool-selling in the District of Columbia," and stated my objection to be that it did not prohibit, but in fact licensed what it purported to prohibit. An effort will be made under existing laws to suppress this evil, though it is not certain that they will be found adequate.

The report of the Postmaster-General shows the most gratifying progress in the important work committed to his direction. The business methods have been greatly improved. A large economy in expenditures and an increase of four and three-quarters millions in receipts have been realized. The deficiency this year is \$5,786,300 as against \$6,350,183 last year, notwithstanding the great enlargement of the service. Mail routes have been extended and quickened, and greater accuracy and dispatch in distribution and delivery have been attained. The report will be found to be full of interest and suggestion, not only to Congress, but to those thoughtful citizens who may be interested to know what business methods can do for that department of public administration which most nearly touches all our people.

The passage of the act to amend certain sections of the Revised Statutes relating to lotteries, approved September 19, 1890, has been received with great and deserved popular favor. The Post-Office Department and the Department of Justice at once entered upon the enforcement of the law with sympathetic vigor, and already the public mails have been largely freed from the fraudulent and demoralizing appeals and literature emanating from the lottery companies.

The construction and equipment of the new ships for the Navy have made very satisfactory progress. Since March 4, 1889, nine new vessels have been put in commission, and during this winter four more, including one monitor, will be added. The construction of the other vessels authorized is being pushed, both in the Government and private yards, with energy and watched with the most scrupulous care.

The experiments conducted during the year to test the relative resisting power of armor plates have been so valuable as to attract great attention in Europe. The only part of the work upon the new

ships that is threatened by unusual delay is the armor plating, and every effort is being made to reduce that to the minimum. It is a source of congratulation that the anticipated influence of these modern vessels upon the *esprit de corps* of the officers and seamen has been fully realized. Confidence and pride in the ship among the crew are equivalent to a secondary battery. Your favorable consideration is invited to the recommendations of the Secretary.

The report of the Secretary of the Interior exhibits with great fullness and clearness the vast work of that Department and the satisfactory results attained. The suggestions made by him are earnestly commended to the consideration of Congress, though they can not all be given particular mention here.

The several acts of Congress looking to the reduction of the larger Indian reservations, to the more rapid settlement of the Indians upon individual allotments, and the restoration to the public domain of lands in excess of their needs, have been largely carried into effect, so far as the work was confided to the Executive. Agreements have been concluded since March 4, 1889, involving the cession to the United States of about 14,726,000 acres of land. These contracts have, as required by law, been submitted to Congress for ratification and for the appropriations necessary to carry them into effect. Those with the Sisseton and Wahpeton, Sac and Fox, Iowa, Pottawatomies and Absentee Shawnees, and Cœur d'Alène tribes have not yet received the sanction of Congress. Attention is also called to the fact that the appropriations made in the case of the Sioux Indians have not covered all the stipulated payments. This should be promptly corrected. If an agreement is confirmed, all of its terms should be complied with without delay, and full appropriations should be made.

The policy outlined in my last annual message in relation to the patenting of lands to settlers upon the public domain has been carried out in the administration of the Land Office. No general suspicion or imputation of fraud has been allowed to delay the hearing and adjudication of individual cases upon their merits. The purpose has been to perfect the title of honest settlers with such promptness that the value of the entry might not be swallowed up by the expense and extortions to which delay subjected the claimant. The average monthly issue of agricultural patents has been increased about six thousand.

The disability pension act, which was approved on the 27th of June last, has been put into operation as rapidly as was practicable. The increased clerical force provided was selected and assigned to work, and a considerable part of the force engaged in examinations in the field was recalled and added to the working force of the office. The examination and adjudication of claims have, by reason of improved methods, been more rapid than ever before. There is no economy to the Government in delay, while there is much hardship and injustice to the soldier. The anticipated expenditure, while very large, will not, it is believed, be in excess of the estimates made before the enactment of the law. This liberal enlargement of the general law should suggest a more careful scrutiny of bills for special relief, both as to the cases where relief is granted and as to the amount allowed.

The increasing numbers and influence of the non-Mormon population in Utah are observed with satisfaction. The recent letter of Wilford Woodruff, president of the Mormon Church, in which he advised his people "to refrain from contracting any marriage forbidden by the laws of the land," has attracted wide attention, and it is hoped that its influence will be highly beneficial in restraining infractions of the laws of the United States. But the fact should not be overlooked that the doctrine or belief of the church that polygamous marriages are rightful and supported by Divine revelation remains unchanged. President Woodruff does not renounce the doctrine, but refrains from teaching it, and advises against the practice of it because the law is against it. Now, it is quite true that the law should not attempt to deal with the faith or belief of any one; but it is quite another thing, and the only safe thing, so to deal with the Territory of Utah as that those who believe polygamy to be rightful shall not have the power to make it lawful.

The admission of the States of Wyoming and Idaho to the Union are events full of interest and congratulation, not only to the people of those States now happily endowed with a full participation in our privileges and responsibilities, but to all our people. Another belt of States stretches from the Atlantic to the Pacific.

The work of the Patent Office has won from all sources very high commendation. The amount accomplished has been very largely increased, and all the results have been such as to secure confidence and consideration for the suggestions of the Commissioner.

The enumeration of the people of the United States under the provisions of the act of March 1, 1889, has been completed and the result will be at once officially communicated to Congress. The completion of this decennial enumeration devolves upon Congress the duty of making a new apportionment of Representatives "among the several States according to their respective numbers."

At the last session I had occasion to return with my objections several bills making provisions for the erection of public buildings, for the reason that the expenditures contemplated were in my opinion greatly in excess of any public need. No class of legislation is more liable to abuse, or to degenerate into an unseemly scramble about the public treasury, than this. There should be exercised in this matter a wise economy based upon some responsible and impartial examination and report as to each case, under a general law.

The report of the Secretary of Agriculture deserves especial attention in view of the fact that the year has been marked in a very unusual degree by agitation and organization among the farmers looking to an increase in the profits of their business. It will be found that the efforts of the Department have been intelligently and zealously devoted to the promotion of the interests intrusted to its care.

A very substantial improvement in the market prices of the leading farm products during the year is noticed. The price of wheat advanced from 81 cents in October, 1889, to \$1.00 $\frac{3}{4}$ in October, 1890; corn from 31 cents to 50 $\frac{1}{4}$ cents; oats from 19 $\frac{1}{4}$ cents to 43 cents, and barley from 63 cents to 78 cents. Meats showed a substantial but not so large an increase. The export trade in live animals and fowls shows a very large increase; the total value of such exports for the year ending June 30, 1890, was \$33,000,000, and the increase over the preceding year was over \$15,000,000. Nearly 200,000 more cattle and over 45,000 more hogs were exported than in the preceding year. The export trade in beef and pork products and in dairy products was very largely increased, the increase in the article of butter alone being from 15,504,978 pounds to 29,748,042 pounds, and the total increase in the value of meat and dairy products exported being \$34,000,000. This trade, so directly helpful to the farmer, it is believed will be yet further and very largely increased when the system of inspection and sanitary supervision now provided by law is brought fully into operation.

The efforts of the Secretary to establish the healthfulness of our meats against the disparaging imputations that have been put upon

them abroad have resulted in substantial progress. Veterinary surgeons sent out by the Department are now allowed to participate in the inspection of the live cattle from this country landed at the English docks, and during the several months they have been on duty no case of contagious pleuro-pneumonia has been reported. This inspection abroad, and the domestic inspection of live animals and pork products, provided for by the act of August 30, 1890, will afford as perfect a guaranty for the wholesomeness of our meats offered for foreign consumption as is anywhere given to any food product, and its non-acceptance will quite clearly reveal the real motive of any continued restriction of their use; and, that having been made clear, the duty of the Executive will be very plain.

The information given by the Secretary of the progress and prospects of the beet-sugar industry is full of interest. It has already passed the experimental stage and is a commercial success. The area over which the sugar beet can be successfully cultivated is very large, and another field crop of great value is offered to the choice of the farmer.

The Secretary of the Treasury concurs in the recommendation of the Secretary of Agriculture that the official supervision provided by the tariff law for sugar of domestic production shall be transferred to the Department of Agriculture.

The law relating to the civil service has, so far as I can learn, been executed by those having the power of appointment in the classified service with fidelity and impartiality, and the service has been increasingly satisfactory. The report of the Commission shows a large amount of good work done during the year with very limited appropriations.

I congratulate the Congress and the country upon the passage at the first session of the Fifty-first Congress of an unusual number of laws of very high importance. That the results of this legislation will be the quickening and enlargement of our manufacturing industries, larger and better markets for our breadstuffs and provisions both at home and abroad, more constant employment and better wages for our working people, and an increased supply of a safe currency for the transaction of business, I do not doubt. Some of these measures were enacted at so late a period that the beneficial effects upon commerce which were in the contemplation of Congress have as yet but partially manifested themselves.

The general trade and industrial conditions throughout the country during the year have shown a marked improvement. For many

years prior to 1888 the merchandise balances of foreign trade had been largely in our favor, but during that year and the year following they turned against us. It is very gratifying to know that the last fiscal year again shows a balance in our favor of over \$68,000,000. The bank clearings, which furnish a good test of the volume of business transacted, for the first ten months of the year 1890 show, as compared with the same months of 1889, an increase for the whole country of about 8.4 per cent., while the increase outside of the city of New York was over 13 per cent. During the month of October the clearings of the whole country showed an increase of 3.1 per cent. over October, 1889, while outside of New York the increase was 11½ per cent. These figures show that the increase in the volume of business was very general throughout the country. That this larger business was being conducted upon a safe and profitable basis is shown by the fact that there were three hundred less failures reported in October, 1890, than in the same month of the preceding year, with liabilities diminished by about \$5,000,000.

The value of our exports of domestic merchandise during the last year was over \$115,000,000 greater than the preceding year, and was only exceeded once in our history. About \$100,000,000 of this excess was in agricultural products. The production of pig-iron—always a good gauge of general prosperity—is shown by a recent census bulletin to have been 153 per cent. greater in 1890 than in 1880, and the production of steel 290 per cent. greater. Mining in coal has had no limitation except that resulting from deficient transportation. The general testimony is that labor is everywhere fully employed, and the reports for the last year show a smaller number of employes affected by strikes and lockouts than in any year since 1884. The depression in the prices of agricultural products had been greatly relieved and a buoyant and hopeful tone was beginning to be felt by all our people.

These promising influences have been in some degree checked by the surprising and very unfavorable monetary events which have recently taken place in England. It is gratifying to know that these did not grow in any degree out of the financial relations of London with our people or out of any discredit attached to our securities held in that market. The return of our bonds and stocks was caused by a money stringency in England, not by any loss of value or credit in the securities themselves. We could not, however, wholly escape the ill effects of a foreign monetary agitation accompanied by such extraordinary incidents as characterized this. It is not believed, however, that these evil incidents, which have for the time unfavorably affected values in this country, can long

withstand the strong, safe, and wholesome influences which are operating to give to our people profitable returns in all branches of legitimate trade and industry. The apprehension that our tariff may again and at once be subjected to important general changes would undoubtedly add a depressing influence of the most serious character.

The general tariff act has only partially gone into operation, some of its important provisions being limited to take effect at dates yet in the future. The general provisions of the law have been in force less than sixty days. Its permanent effects upon trade and prices still largely stand in conjecture. It is curious to note that the advance in the prices of articles wholly unaffected by the tariff act was by many hastily ascribed to that act. Notice was not taken of the fact that the general tendency of the markets was upward from influences wholly apart from the recent tariff legislation. The enlargement of our currency by the silver bill undoubtedly gave an upward tendency to trade and had a marked effect on prices; but this natural and desired effect of the silver legislation was by many erroneously attributed to the tariff act.

There is neither wisdom nor justice in the suggestion that the subject of tariff revision shall be again opened before this law has had a fair trial. It is quite true that every tariff schedule is subject to objections. No bill was ever framed, I suppose, that in all of its rates and classifications had the full approval even of a party caucus. Such legislation is always and necessarily the product of compromise as to details, and the present law is no exception. But in its general scope and effect I think it will justify the support of those who believe that American legislation should conserve and defend American trade and the wages of American workmen.

The misinformation as to the terms of the act which has been so widely disseminated at home and abroad will be corrected by experience, and the evil auguries as to its results confounded by the market reports, the savings banks, international trade balances, and the general prosperity of our people. Already we begin to hear from abroad and from our custom-houses that the prohibitory effect upon importations imputed to the act is not justified. The imports at the port of New York for the first three weeks of November were nearly 8 per cent. greater than for the same period in 1889 and 29 per cent. greater than in the same period of 1888. And so far from being an act to limit exports, I confidently believe that under it we shall secure a larger and more profitable participation in foreign trade than we have ever enjoyed, and that we shall recover a proportionate participation in the ocean carrying trade of the world.

The criticisms of the bill that have come to us from foreign sources may well be rejected for repugnancy. If these critics really believe that the adoption by us of a free-trade policy, or of tariff rates having reference solely to revenue, would diminish the participation of their own countries in the commerce of the world, their advocacy and promotion by speech and other forms of organized effort of this movement among our people is a rare exhibition of unselfishness in trade. And on the other hand, if they sincerely believe that the adoption of a protective-tariff policy by this country inures to their profit and our hurt, it is noticeably strange that they should lead the outcry against the authors of a policy so helpful to their countrymen, and crown with their favor those who would snatch from them a substantial share of a trade with other lands already inadequate to their necessities.

There is no disposition among any of our people to promote prohibitory or retaliatory legislation. Our policies are adopted not to the hurt of others, but to secure for ourselves those advantages that fairly grow out of our favored position as a nation. Our form of government, with its incident of universal suffrage, makes it imperative that we shall save our working people from the agitations and distresses which scant work and wages that have no margin for comfort always beget. But after all this is done it will be found that our markets are open to friendly commercial exchanges of enormous value to the other great powers.

From the time of my induction into office the duty of using every power and influence given by law to the Executive Department for the development of larger markets for our products, especially our farm products, has been kept constantly in mind, and no effort has been or will be spared to promote that end. We are under no disadvantage in any foreign market, except that we pay our workmen and workwomen better wages than are paid elsewhere—better abstractly, better relatively to the cost of the necessities of life. I do not doubt that a very largely increased foreign trade is accessible to us without bartering for it either our home market for such products of the farm and shop as our own people can supply or the wages of our working people.

In many of the products of wood and iron, and in meats and bread-stuffs, we have advantages that only need better facilities of intercourse and transportation to secure for them large foreign markets. The reciprocity clause of the tariff act wisely and effectively opens the way to secure a large reciprocal trade in exchange for the free admission to our ports of certain products. The right of independent nations to make special reciprocal trade concessions is well established, and does not impair either the comity due to other powers

or what is known as the "favored-nation clause," so generally found in commercial treaties. What is given to one for an adequate agreed consideration can not be claimed by another freely. The state of the revenues was such that we could dispense with any import duties upon coffee, tea, hides, and the lower grades of sugar and molasses. That the large advantage resulting to the countries producing and exporting these articles by placing them on the free list entitled us to expect a fair return in the way of customs concessions upon articles exported by us to them was so obvious that to have gratuitously abandoned this opportunity to enlarge our trade would have been an unpardonable error.

There were but two methods of maintaining control of this question open to Congress: to place all of these articles upon the dutiable list, subject to such treaty agreements as could be secured, or to place them all presently upon the free list, but subject to the reimposition of specified duties if the countries from which we received them should refuse to give to us suitable reciprocal benefits. This latter method, I think, possesses great advantages. It expresses in advance the consent of Congress to reciprocity arrangements affecting these products, which must otherwise have been delayed and unascertained until each treaty was ratified by the Senate and the necessary legislation enacted by Congress. Experience has shown that some treaties looking to reciprocal trade have failed to secure a two-thirds vote in the Senate for ratification, and others having passed that stage have for years awaited the concurrence of the House and Senate in such modifications of our revenue laws as were necessary to give effect to their provisions. We now have the concurrence of both Houses in advance in a distinct and definite offer of free entry to our ports of specific articles. The Executive is not required to deal in conjecture as to what Congress will accept. Indeed, this reciprocity provision is more than an offer. Our part of the bargain is complete; delivery has been made; and when the countries from which we receive sugar, coffee, tea, and hides have placed on their free lists such of our products as shall be agreed upon, as an equivalent for our concession, a proclamation of that fact completes the transaction; and in the mean time our own people have free sugar, tea, coffee, and hides.

The indications thus far given are very hopeful of early and favorable action by the countries from which we receive our large imports of coffee and sugar, and it is confidently believed that if steam communication with these countries can be promptly improved and enlarged the next year will show a most gratifying increase in our exports of breadstuffs and provisions, as well as of some important lines of manufactured goods.

In addition to the important bills that became laws before the adjournment of the last session, some other bills of the highest importance were well advanced toward a final vote and now stand upon the calendars of the two Houses in favored positions. The present session has a fixed limit, and if these measures are not now brought to a final vote all the work that has been done upon them by this Congress is lost. The proper consideration of these, of an apportionment bill, and of the annual appropriation bills will require not only that no working day of the session shall be lost, but that measures of minor and local interest shall not be allowed to interrupt or retard the progress of those that are of universal interest. In view of these conditions, I refrain from bringing before you at this time some suggestions that would otherwise be made, and most earnestly invoke your attention to the duty of perfecting the important legislation now well advanced. To some of these measures which seem to me most important I now briefly call your attention.

I desire to repeat with added urgency the recommendations contained in my last annual message in relation to the development of American steamship lines. The reciprocity clause of the tariff bill will be largely limited, and its benefits retarded and diminished, if provision is not contemporaneously made to encourage the establishment of first-class steam communication between our ports and the ports of such nations as may meet our overtures for enlarged commercial exchanges. The steamship, carrying the mails statedly and frequently, and offering to passengers a comfortable, safe, and speedy transit, is the first condition of foreign trade. It carries the order or the buyer, but not all that is ordered or bought. It gives to the sailing vessels such cargoes as are not urgent or perishable, and, indirectly at least, promotes that important adjunct of commerce. There is now both in this country and in the nations of Central and South America a state of expectation and confidence as to increased trade that will give a double value to your prompt action upon this question.

The present situation of our mail communication with Australia illustrates the importance of early action by Congress. The Oceanic Steamship Company maintains a line of steamers between San Francisco, Sydney, and Auckland, consisting of three vessels, two of which are of United States registry and one of foreign registry. For the service done by this line in carrying the mails we pay annually the sum of \$46,000, being, as estimated, the full sea and United States inland postage, which is the limit fixed by law. The colonies of New South Wales and New Zealand have been paying

annually to these lines £37,000 for carrying the mails from Sydney and Auckland to San Francisco. The contract under which this payment has been made is now about to expire, and those colonies have refused to renew the contract unless the United States shall pay a more equitable proportion of the whole sum necessary to maintain the service.

I am advised by the Postmaster-General that the United States receives for carrying the Australian mails, brought to San Francisco in these steamers, by rail to Vancouver an estimated annual income of \$75,000, while, as I have stated, we are paying out for the support of the steamship line that brings this mail to us only \$46,000, leaving an annual surplus, resulting from this service, of \$29,000. The trade of the United States with Australia, which is in a considerable part carried by these steamers, and the whole of which is practically dependent upon the mail communication which they maintain, is largely in our favor. Our total exports of merchandise to Australasian ports during the fiscal year ending June 30, 1890, were \$11,266,484, while the total imports of merchandise from these ports were only \$4,277,676. If we are not willing to see this important steamship line withdrawn, or continued with Vancouver substituted for San Francisco as the American terminal, Congress should put it in the power of the Postmaster-General to make a liberal increase in the amount now paid for the transportation of this important mail.

The South Atlantic and Gulf ports occupy a very favored position towards the new and important commerce which the reciprocity clause of the tariff act and the postal shipping bill are designed to promote. Steamship lines from these ports to some northern port of South America will almost certainly effect a connection between the railroad systems of the continents long before any continuous line of railroads can be put into operation. The very large appropriation made at the last session for the harbor of Galveston was justified, as it seemed to me, by these considerations. The great Northwest will feel the advantage of trunk lines to the South as well as to the East, and of the new markets opened for their surplus food products and for many of their manufactured products.

I had occasion in May last to transmit to Congress a report adopted by the International American Conference upon the subject of the incorporation of an international American bank, with a view to facilitating money exchanges between the States represented in that conference. Such an institution would greatly promote the trade we are seeking to develop. I renew the recommendation that a care-

ful and well-guarded charter be granted. I do not think the powers granted should include those ordinarily exercised by trust, guaranty, and safe-deposit companies, or that more branches in the United States should be authorized than are strictly necessary to accomplish the object primarily in view, namely, convenient foreign exchanges. It is quite important that prompt action should be taken in this matter, in order that any appropriations for better communication with these countries, and any agreements that may be made for reciprocal trade, may not be hindered by the inconvenience of making exchanges through European money centers, or burdened by the tribute which is an incident of that method of business.

The bill for the relief of the Supreme Court has, after many years of discussion, reached a position where final action is easily attainable, and it is hoped that any differences of opinion may be so harmonized as to save the essential features of this very important measure. In this connection I earnestly renew my recommendation that the salaries of the judges of the United States district courts be so readjusted that none of them shall receive less than \$5,000 per annum.

The subject of the unadjusted Spanish and Mexican land grants and the urgent necessity for providing some commission or tribunal for the trial of questions of title growing out of them were twice brought by me to the attention of Congress at the last session. Bills have been reported from the proper committees in both Houses upon the subject, and I very earnestly hope that this Congress will put an end to the delay which has attended the settlement of the disputes as to title between the settlers and the claimants under these grants. These disputes retard the prosperity and disturb the peace of large and important communities. The governor of New Mexico, in his last report to the Secretary of the Interior, suggests some modifications of the provisions of the pending bills relating to the small holdings of farm lands. I commend to your attention the suggestions of the Secretary of the Interior upon this subject.

The enactment of a national bankrupt law I still regard as very desirable. The Constitution having given to Congress jurisdiction of this subject, it should be exercised, and uniform rules provided for the administration of the affairs of insolvent debtors. The inconveniences resulting from the occasional and temporary exercise of this power by Congress, and from the conflicting State codes of insolvency which come into force intermediately, should be removed by the enactment of a simple, inexpensive, and permanent national bankrupt law.

I also renew my recommendation in favor of legislation affording just copyright protection to foreign authors, on a footing of reciprocal advantage for our authors abroad.

It may still be possible for this Congress to inaugurate, by suitable legislation, a movement looking to uniformity and increased safety in the use of couplers and brakes upon freight trains engaged in interstate commerce. The chief difficulty in the way is to secure agreement as to the best appliances, simplicity, effectiveness, and cost being considered. This difficulty will only yield to legislation, which should be based upon full inquiry and impartial tests. The purpose should be to secure the co-operation of all well-disposed managers and owners, but the fearful fact that every year's delay involves the sacrifice of two thousand lives and the maiming of twenty thousand young men should plead both with Congress and the managers against any needless delay.

The subject of the conservation and equal distribution of the water supply of the arid regions has had much attention from Congress, but has not as yet been put upon a permanent and satisfactory basis. The urgency of the subject does not grow out of any large present demand for the use of these lands for agriculture, but out of the danger that the water supply and the sites for the necessary catch-basins may fall into the hands of individuals or private corporations and be used to render subservient the large areas dependent upon such supply. The owner of the water is the owner of the lands, however the titles may run. All unappropriated natural water sources and all necessary reservoir sites should be held by the Government for the equal use, at fair rates, of the homestead settlers who will eventually take up these lands. The United States should not, in my opinion, undertake the construction of dams or canals, but should limit its work to such surveys and observations as will determine the water supply, both surface and subterranean, the areas capable of irrigation, and the location and storage capacity of reservoirs. This done, the use of the water and of the reservoir sites might be granted to the respective States or Territories, or to individuals or associations upon the condition that the necessary works should be constructed and the water furnished at fair rates, without discrimination, the rates to be subject to supervision by the legislatures or by boards of water commissioners duly constituted. The essential thing to be secured is the common and equal use at fair rates of the accumulated water supply. It were almost better that these lands should remain arid than that those who

occupy them should become the slaves of unrestrained monopolies controlling the one essential element of land values and crop results.

The use of the telegraph by the Post-Office Department as a means for the rapid transmission of written communications is, I believe, upon proper terms quite desirable. The Government does not own or operate the railroads, and it should not, I think, own or operate the telegraph lines. It does, however, seem to be quite practicable for the Government to contract with the telegraph companies, as it does with the railroad companies, to carry at specified rates such communications as the senders may designate for this method of transmission. I recommend that such legislation be enacted as will enable the Post-Office Department fairly to test by experiment the advantages of such a use of the telegraph.

If any intelligent and loyal company of American citizens were required to catalogue the essential human conditions of national life, I do not doubt that with absolute unanimity they would begin with "free and honest elections." And it is gratifying to know that generally there is a growing and non-partisan demand for better election laws. But against this sign of hope and progress must be set the depressing and undeniable fact that election laws and methods are sometimes cunningly contrived to secure minority control, while violence completes the shortcomings of fraud.

In my last annual message I suggested that the development of the existing law providing a Federal supervision of Congressional elections offered an effective method of reforming these abuses. The need of such a law has manifested itself in many parts of the country, and its wholesome restraints and penalties will be useful in all. The constitutionality of such legislation has been affirmed by the Supreme Court. Its probable effectiveness is evidenced by the character of the opposition that is made to it. It has been denounced as if it were a new exercise of Federal power and an invasion of the rights of the States. Nothing could be further from the truth. Congress has already fixed the time for the election of Members of Congress. It has declared that votes for Members of Congress must be by written or printed ballot; it has provided for the appointment by the circuit courts in certain cases, and upon the petition of a certain number of citizens, of election supervisors, and made it their duty to supervise the registration of voters conducted by the State officers; to challenge persons offering to register; to personally inspect and scrutinize the registry lists, and to affix their names to

the lists for the purpose of identification and the prevention of frauds; to attend at elections and remain with the boxes till the votes are all cast and counted; to attach to the registry lists and election returns any statement touching the accuracy and fairness of the registry and election, and to take and transmit to the Clerk of the House of Representatives any evidence of fraudulent practices which may be presented to them. The same law provides for the appointment of deputy United States marshals to attend at the polls, support the supervisors in the discharge of their duties, and to arrest persons violating the election laws. The provisions of this familiar title of the Revised Statutes have been put into exercise by both the great political parties, and in the North as well as in the South, by the filing with the court of the petitions required by the law.

It is not, therefore, a question whether we shall have a Federal election law, for we now have one, and have had for nearly twenty years, but whether we shall have an effective law. The present law stops just short of effectiveness, for it surrenders to the local authorities all control over the certification which establishes the *prima facie* right to a seat in the House of Representatives. This defect should be cured. Equality of representation and the parity of the electors must be maintained, or everything that is valuable in our system of government is lost. The qualifications of an elector must be sought in the law, not in the opinions, prejudices, or fears of any class, however powerful. The path of the elector to the ballot-box must be free from the ambush of fear and the enticements of fraud; the count so true and open that none shall gainsay it. Such a law should be absolutely non-partisan and impartial. It should give the advantage to honesty and the control to majorities. Surely there is nothing sectional about this creed, and, if it shall happen that the penalties of laws intended to enforce these rights fall here and not there, it is not because the law is sectional, but because, happily, crime is local and not universal. Nor should it be forgotten that every law, whether relating to elections or to any other subject, whether enacted by the State or by the Nation, has force behind it: the courts, the marshal or constable, the *posse comitatus*, the prison, are all and always behind the law.

One can not be justly charged with unfriendliness to any section or class who seeks only to restrain violations of law and of personal right. No community will find lawlessness profitable. No community can afford to have it known that the officers who are charged with the preservation of the public peace and the restraint of the criminal classes are themselves the product of fraud or violence. The magistrate is then without respect and the law without sanction.

The floods of lawlessness can not be leveed and made to run in one channel. The killing of a United States marshal carrying a writ of arrest for an election offense is full of prompting and suggestion to men who are pursued by a city marshal for a crime against life or property.

But it is said that this legislation will revive race animosities, and some have even suggested that when the peaceful methods of fraud are made impossible they may be supplanted by intimidation and violence. If the proposed law gives to any qualified elector, by a hair's weight, more than his equal influence, or detracts by so much from any other qualified elector, it is fatally impeached. But, if the law is equal and the animosities it is to evoke grow out of the fact that some electors have been accustomed to exercise the franchise for others as well as for themselves, then these animosities ought not to be confessed without shame, and can not be given any weight in the discussion without dishonor. No choice is left to me but to enforce with vigor all laws intended to secure to the citizen his constitutional rights, and to recommend that the inadequacies of such laws be promptly remedied. If to promote with zeal and ready interest every project for the development of its material interests, its rivers, harbors, mines, and factories, and the intelligence, peace, and security under the law of its communities and its homes, is not accepted as sufficient evidence of friendliness to any State or section, I can not add connivance at election practices that not only disturb local results, but rob the electors of other States and sections of their most priceless political rights.

The preparation of the general appropriation bills should be conducted with the greatest care and the closest scrutiny of expenditures. Appropriations should be adequate to the needs of the public service, but they should be absolutely free from prodigality.

I venture again to remind you that the brief time remaining for the consideration of the important legislation now awaiting your attention offers no margin for waste. If the present duty is discharged with diligence, fidelity, and courage, the work of the Fifty-first Congress may be confidently submitted to the considerate judgment of the people.

BENJ. HARRISON.

EXECUTIVE MANSION,
December 1, 1890.

FOREIGN RELATIONS.

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	Same to same (telegram)....	July 21	<i>Colima</i> : The Guatemalan Government has confiscated the arms on board. Instructions to protest and to demand restoration.	35
	Mr. Misner to Mr. Blaine (telegram).	July 22	War between Salvador and Guatemala: Rumored defeat of the Guatemalan army. Has not heard from the Department for 2 weeks. Guatemala, Nicaragua, and Costa Rica—Honduras consenting by telegraph—have signed a treaty securing constitutional government in Salvador and request the good offices and moral support of the United States. Asks for a man-of-war.	35
124	Same to same.....	July 23	War between Salvador and Guatemala: Defeat and retreat of the Guatemalan army. Martial law declared throughout Guatemala on the 21st instant. All men between 18 and 50 required to present themselves for military duty. Export duty on coffee raised to \$2 per 100 pounds. Duties on imports raised. War formally declared by Guatemala against Salvador. Confirms his telegram of the 22d instant. Asks for a man-of-war. Incloses the Spanish text of the treaty between Guatemala, Nicaragua, Costa Rica, and Honduras, of the 19th instant.	36
	Mr. Wharton to Mr. Misner (telegram).	July 25	Interception of telegrams: The Department has sent Mr. Misner five telegrams.	39
	Mr. Blaine to Mr. Misner (telegram).	July 26	Interception of telegrams: Instructions to demand an immediate investigation, and inviolability of his official correspondence.	39
	Same to same (telegram)....	July 26	Good offices: Instructions to tender the good offices of the United States for the friendly adjustment of all the differences among the states of Central America.	39
125	Mr. Misner to Mr. Blaine...	July 26	War between Salvador and Guatemala: Incloses a copy and translation of a decree issued by the President of Guatemala on the 21st instant, declaring war against Salvador.	40
126	Same to same.....	July 28	Seizure of arms on the <i>Colima</i> : Violation of a positive agreement made by him on the 18th instant with the Guatemalan Government that they should be stored with the United States consular agent at San José or sent to a neutral port. They were seized while being transferred from the <i>Colima</i> , going south, to the <i>City of Sidney</i> , going north.	40
	Same to same (telegram)....	July 29	War between Salvador and Guatemala: Both armies resting after many engagements.	41
129	Same to same.....	July 31	Interception of telegrams: Reports how he received four telegrams from the Department.	41

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1890.		
130	Mr. Misner to Mr. Blaine...	July 31	War between Salvador and Guatemala: Describes the situation. Has tendered the good offices of the United States to the President of Guatemala. They were declined.	41
131	Same to same.....	July 31	Protection to American interests: Arrival of the U. S. S. <i>Ranger</i> and the U. S. S. <i>Thetis</i> at San José on the 28th instant.	42
	Mr. Wharton to Mr. Misner (telegram).	July 31	Good offices: Instructions to proceed immediately to San José de Guatemala and there to await further instructions.	43
	Same to same (telegram)....	July 31	Good offices: Instructions to use his good offices with the Governments of Guatemala and Salvador for the restoration of peace, securing communication with Salvador by means of the <i>Ranger</i> or <i>Thetis</i> .	43
	Mr. Misner to Mr. Blaine (telegram).	Aug. 1	Good offices: Gives reasons why it is inexpedient for him to go to San José.	44
142	Mr. Wharton to Mr. Misner.	Aug. 2	War between Salvador and Guatemala: President Barillas's proclamation received.	44
	Same to same (telegram)....	Aug. 4	Good offices: Department considers it necessary for him to go to San José and place himself in communication with the Government of Salvador through the <i>Ranger</i> and the <i>Thetis</i> .	44
132	Mr. Misner to Mr. Blaine ...	Aug. 4	Good offices: Incloses copies and translations of speeches made at the reception of the Costa Rican minister accredited on a special mission of peace to Guatemala and Salvador by the President of Guatemala on the 16th of July.	45
133	Same to same.....	Aug. 4	Seizure of arms on the <i>Olekma</i> : Gives details and incloses copies of correspondence with the Guatemalan Government on the subject.	47
134	Same to same.....	Aug. 4	Good offices: Incloses copies and translations of correspondence between Nicaraguan minister to Guatemala and the Guatemalan Government, and a communication of July 30 from the Costa Rican and Nicaraguan ministers to Guatemala to the Provisional President of Salvador, in the interests of peace.	50
135	Same to same.....	Aug. 5	Good offices: Gives reasons for assuming that the Department wishes him to go to La Libertad, instead of San José. Will go to La Libertad on the <i>Thetis</i> .	52
	Same to same (telegram)....	Aug. 5	War between Salvador and Guatemala: General Ezeta declines the good offices of the United States and declares his intention to hoist his flag in the city of Guatemala.	54
143	Mr. Wharton to Mr. Misner.	Aug. 5	Seizure of arms on the <i>Olekma</i> by the Guatemalan Government: Incloses copies of communications received by the Department of State from the Pacific Mail Steamship Company.	54
144	Same to same.....	Aug. 6	Interception of telegrams: States that Guatemala could communicate with its minister in Mexico.	61
145	Same to same.....	Aug. 6	Good offices: Incloses copies of the Department's telegrams to him in relation to the tender of the good offices of the United States between Salvador and Guatemala; also copies of telegrams exchanged between the Department and the United States legation in Mexico regarding the proposal of the Mexican Government to act either jointly or concurrently with the United States in the interest of peace between Salvador and Guatemala. The United States Government respects the independent sovereign rights of each commonwealth, and can not countenance forcible interference from any quarter.	61
146	Same to same.....	Aug. 6	Interception of telegrams: Instructions to investigate the causes of the delay in receiving telegrams, and to report on the subject.	62
	Same to same (telegram)....	Aug. 7	Interception of telegrams: General Guirola has telegraphed that messages from Department to Mr. Misner are not detained in Salvador; detention must consequently be in Guatemala.	63
	Same to same (telegram)....	Aug. 8	Attack upon the United States consulate in San Salvador: Telegram of this date received; asks for a full report. Instructions to notify the Government of Salvador that unless the rights of the Government and citizens of the United States are respected the President will be compelled to devise measures for their enforcement. Directs him, if necessary, to proceed to San Salvador and demand that the consul be reinstated and protected.	64

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Misner to Mr. Blaine (telegram).	1890. Aug. 8	Attack upon the United States consulate in San Salvador: During a battle in the city of San Salvador, General Ezeta's forces seized the United States consulate, hauled down the flag, and damaged and destroyed property; has demanded immediate reparation. A firmer attitude is needed towards Guatemala and Salvador. Asks for an increase of the naval force in Central American waters.	64
	Same to same (telegram)....	Aug. 9	Attack upon the United States consulate in San Salvador: Has received Mr. Blaine's telegram of the 9th instant. The reparation demanded on the 8th instant is promised for the 10th. Will go to San Salvador on the 10th instant.	64
	Same to same (telegram)....	Aug. 11	Attack upon the United States consulate in San Salvador: In accordance with his demand, the Government of Salvador, on the 10th instant, hoisted the United States flag over the consulate, fired a salute of 21 guns, reinstated the consul in his office, and guaranteed his rights. The minister of foreign affairs has written him an adequate letter of apology.	64
149	Mr. Wharton to Mr. Misner.	Aug. 11	Seizure of arms on the <i>Colima</i> : Incloses a copy of a letter of the 7th instant, and inclosures, from the president of the Pacific Mail Steamship Company.	65
150	Same to same.....	Aug. 11	War between Salvador and Guatemala: Incloses dispatch No. 350 from the United States minister in Mexico.	73
	Same to same (telegram)....	Aug. 12	Attack on the United States consulate at San Salvador: Instructions to express the gratification of the United States Government at the reparation made.	73
	Mr. Misner to Mr. Blaine (telegram).	Aug. 12	War between Salvador and Guatemala: Peace suggested by Salvador on the basis of non-intervention. Armies quiet and in camp.	73
139	Same to same.....	Aug. 15	War between Salvador and Guatemala: Reports his return to Guatemala from San Salvador on the 14th instant.	73
	Mr. Wharton to Mr. Misner (telegram).	Aug. 15	Good offices between Salvador and Guatemala: Glad to welcome Mexico's disposition toward establishment of peace.	74
	Mr. Misner to Mr. Blaine (telegram).	Aug. 16	Good offices of the United States have been accepted by both belligerents.	74
	Same to same (telegram) ...	Aug. 18	Peace negotiations: Bases of peace accepted by the ministers of both belligerents, subject to approval by the respective Presidents.	74
141	Same to same.....	Aug. 18	Attack upon the United States consulate at San Salvador: Gives details and incloses documents.	75
156	Mr. Wharton to Mr. Misner.	Aug. 19	Seizure of arms on the <i>Colima</i> : Department awaits further particulars.	79
144	Mr. Misner to Mr. Blaine ...	Aug. 20	Interception of telegrams: Is investigating the causes of delay in their delivery.	79
145	Same to same.....	Aug. 20	War between Salvador and Guatemala: Gives an account of the battle of July 30 and 31, in the city of San Salvador, between the forces of General Rivas and Gen. Antonio Ezeta.	79
	Same to same (telegram) ...	Aug. 21	Seizure of arms on the <i>Colima</i> : The Guatemalan Government requires the official who seized the arms to return them with a written apology. He has reserved all claims for damages.	80
	Same to same (telegram) ...	Aug. 25	War between Salvador and Guatemala: Salvador does not agree to the bases of peace. The armistice extended 4 days.	81
	Mr. Wharton to Mr. Ryan (telegram).	Aug. 25	War between Salvador and Guatemala: Instructs him to telegraph Mr. Misner to suggest arbitration.	81
	Mr. Misner to Mr. Blaine (telegram).	Aug. 27	War between Salvador and Guatemala: The bases of peace have been modified and accepted by both parties.	81
147	Same to same.....	Aug. 27	Good offices: Acknowledges telegram of 15th instant. As peace has been agreed upon, supposes that further action may be suspended.	82
148	Same to same.....	Aug. 28	War between Salvador and Guatemala: Acknowledges telegram of 26th instant. As the bases of peace have been signed, action with regard to arbitration is unnecessary.	82
	Same to same (telegram)...	Aug. 28	Killing of Gen. J. M. Barrundia on board the American steamer <i>Acapulco</i> at San José de Guatemala by the Guatemalan officials: Re-	82

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Misner to Mr. Blaine (telegram)—Continued.	1890. Aug. 28	ports the killing of General Barrundia this day while resisting arrest. He had guarantees for the safety of Barrundia, and united with the United States consul-general in advising the captain of the <i>Acapulco</i> to permit the arrest.	
150	Same to same	Aug. 29	Killing of Gen. J. M. Barrundia: Makes a report and incloses copies of documents on the subject.	83
243	Mr. Hoemer to Mr. Wharton	Aug. 29	Killing of Gen. J. M. Barrundia: Makes a report and incloses copies of document on the subject.	86
	Mr. Wharton to Mr. Misner (telegram).	Aug. 30	Killing of General Barrundia: Regrets that Mr. Misner advised or consented to the surrender of Barrundia. Barrundia placed himself within the jurisdiction of Guatemala at his own peril, and it was for the authorities of Guatemala to assume jurisdiction at their own risk.	90
	Same to same (telegram)....	Sept. 2	Killing of General Barrundia: Mr. Misner's telegram of the 1st instant received. Repeats his own telegram of August 30.	90
	Mr. Misner to Mr. Blaine (telegram).	Sept. 3	War between Salvador and Guatemala: Both armies have been withdrawn from the frontier and are being rapidly disbanded.	90
151	Same to same	Sept. 3	War between Salvador and Guatemala: Gives an account of the peace negotiations and incloses copies and translations of documents.	90
	Mr. Wharton to Mr. Misner (telegram).	Sept. 3	Killing of General Barrundia: Instructs him to make a full report on the subject.	96
	Mr. Misner to Mr. Blaine (telegram).	Sept. 4	Killing of General Barrundia: Gives his reasons for consenting to Barrundia's arrest. Has sent a full report.	96
158	Same to same	Sept. 9	Killing of General Barrundia: Acknowledges telegram of 2d instant. Sends a full report in his No. 150.	96
159	Same to same	Sept. 10	Seizure of arms on the <i>Cohima</i> : Gives further details. The arms were returned on the 31st ultimo. Incloses copies of documents.	97
160	Same to same	Sept. 10	Interception of telegrams: Copies of all telegrams to and from the various legations in Guatemala are inspected by the Government. Has not received Department's telegram of July 20.	100
161	Same to same	Sept. 10	War between Salvador and Guatemala: The armies have been reduced to a peace footing. Peace will be declared in a few days.	100
170	Mr. Wharton to Mr. Misner.	Sept. 10	Attack on the United States consulate at San Salvador: Consul Myers will be instructed to furnish a statement of the damage done to his own property and to that of the consulate.	101
	Mr. Misner to Mr. Blaine (telegram).	Sept. 11	War between Salvador and Guatemala: The bases of peace have been complied with, the armies have been disbanded, and the presence of the men-of-war is no longer required.	101
	Mr. Wharton to Mr. Misner (telegram).	Sept. 12	War between Salvador and Guatemala: Instructions to express the earnest wishes of the United States Government for continued friendliness between Guatemala and Salvador.	101
	Mr. Tracy to Mr. Blaine....	Sept. 13	War between Salvador and Guatemala: Incloses a copy of a letter of August 28, 1890, from the commander of the U. S. S. <i>Ranger</i> , announcing the acceptance of the terms of peace by Guatemala and Salvador. Seizure of arms on the <i>Cohima</i> . The same letter reports the return of the arms by the Guatemalan Government. Killing of General Barrundia. The same letter gives details regarding the killing of General Barrundia.	101
	Mr. Misner to Mr. Blaine (telegram).	Sept. 14	Salvador: General Carlos Ezeta has been unanimously elected constitutional President.	104
174	Mr. Wharton to Mr. Misner.	Sept. 15	Good offices: Has received his No. 147, of the 27th ultimo.	104
165	Mr. Misner to Mr. Blaine...	Sept. 17	Killing of General Barrundia: Has sent Mr. Hoemer to San José to take the affidavit of the captain of the <i>Acapulco</i> .	105
177	Mr. Wharton to Mr. Misner.	Sept. 18	Attack on the United States consulate at San Salvador: Instructs him to investigate the truth of certain allegations of Consul Myers.	105
170	Mr. Misner to Mr. Blaine (telegram).	Sept. 21	War between Salvador and Guatemala: Peace and order reign in Guatemala.	106
	Same to same	Sept. 23	Killing of General Barrundia: Gives further details and incloses documents on the subject.	106
173	Same to same	Sept. 24	Martial law was abolished in Guatemala on the 22d instant.	113

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
174	Mr. Mizner to Mr. Blaine...	1890, Sept. 24	Good offices between Salvador and Guatemala: Both states consider the United States as having been chiefly instrumental in the peace settlement.	113
186	Mr. Blaine to Mr. Mizner...	Sept. 29	Interception of telegrams: Incloses the text of Department's telegram of July 20. Instructs him to ascertain why it did not reach him.	113
188	Same to same.....	Oct. 3	Interception of telegrams: The director of telegrams of Salvador states that Department's telegram of July 20 was forwarded to Mr. Mizner via Honduras.	114
189	Same to same.....	Oct. 6	Attack on the United States consulate at San Salvador: Incloses a letter of September 27, 1890, from Consul Myers, with accompanying documents giving details.	115
	Mr. Mizner to Mr. Blaine (telegram).	Oct. 6	Salvador: Has forwarded by mail General Essets's letter to the President of the United States announcing his election as constitutional President of Salvador.	117
179	Same to same.....	Oct. 8	Good offices: Gives details with regard to the negotiation of a treaty of peace between Salvador and Guatemala.	117
187	Same to same.....	Oct. 18	Interception of telegrams: Has requested the cable operator at La Libertad to send him a written statement of the control exercised over his office by the authorities of Salvador in July, August, and September, 1890. Asks for a copy of the disclaimer of the Government of Salvador.	118
188	Same to same.....	Oct. 18	Attack upon the United States consulate at San Salvador: Will communicate with the Salvadorian Government with regard to its refusal to give Consul Myers a pass to leave the country.	119
197	Mr. Blaine to Mr. Mizner...	Oct. 21	Interception of telegrams: Instructs him to protest against the continued interruption of mercantile correspondence by means of the cable via La Libertad. Incloses copies of two dispatches from the United States vice-consul at Tegucigalpa on the subject.	119
193	Mr. Mizner to Mr. Blaine...	Oct. 24	Interception of telegrams: He has the certificate of the receiving clerk at the central office of the telegraph company, in Guatemala, that Department's telegram of July 20 was never received at his office, the only one having telegraphic connection with Honduras.	121
197	Same to same.....	Oct. 29	War between Salvador and Guatemala: The special minister of Salvador to negotiate the treaty of peace with Guatemala was received by the President of Guatemala on the 20th instant.	121
203	Same to same.....	Nov. 10	Interception of telegrams: The officer who was in charge of the cable at La Libertad in July, August, and September, 1890, states that it is a part of the contract between the cable company and the Government of Salvador that the latter should have supervision of the correspondence, and that, during the late war, in July and August, the authorities of Salvador placed a guard of soldiers over the cable office at La Libertad, controlling its business.	122
203	Mr. Blaine to Mr. Mizner...	Nov. 14	Interception of telegrams: Incloses a copy of General Guirola's telegram of August 6, 1890, stating that telegrams for Mr. Mizner were not detained in Salvador.	123
206	Same to same.....	Nov. 18	Killing of General Barrundia: Recapitulates the facts in the case; cites analogous cases; reviews the course pursued by Mr. Mizner in the matter, and condemns it. Instructs him to turn over the legation to Mr. Kimberly, as chargé d'affaires <i>ad interim</i> .	123
225	Mr. Blaine to Mr. Kimberly..	Dec. 22	Seizure of arms on the <i>Colima</i> : Reviews the facts in the case. The United States Government considers itself clearly entitled to some satisfactory apology or reparation from Guatemala, but prefers that the suggestion to that effect should come from the Guatemalan Government.	142
227	Mr. Mizner to Mr. Blaine...	Dec. 31	Killing of General Barrundia: Has this day turned over the legation to Mr. Kimberly. Defends his action in the Barrundia case, and states that, with the exception of the Mexican legation, the entire diplomatic corps in Central America has indorsed it in writing.	144

CHINA.

No.	From and to whom.	Date.	Subject.	Page.
938	Mr. Denby to Mr. Blaine....	1889. Oct. 31	Claim of Louis McCaslin for injuries suffered by the closing of a bridge of boats at Ningpo, April 29, 1888: Reports the trial of the case, and the refusal of the foreign office (yamén) to grant any relief.	147
1005	Same to same.....	Nov. 19	Complaint of the American Presbyterian mission at Chi-nan-fu: The local authorities refuse to give them a lot in the city in exchange for the one which they had purchased, and from which they had been driven at the time of the Chi-nan-fu riots. Incloses copies of his correspondence with the missionaries on the subject.	148
476	Mr. Blaine to Mr. Denby....	Dec. 12	Claim of Louis McCaslin: Asks for copies of his correspondence with the yamén in the case.	152
1018	Mr. Denby to Mr. Blaine....	Dec. 30	Travel certificates permitting Americans to travel in the interior of China: Recommends that hereafter they be issued for the proposed trip, and not for a whole year as heretofore; incloses a copy of his letter of December 29, 1889, to the United States consul at Amoy with regard to a travel certificate for Chun Arfat, a Chinaman claiming to be a naturalized citizen of the United States.	153
1032	Same to same.....	1890. Jan. 14	Claim of Rev. Gilbert Reid against the Chinese Government for an assault made upon him by Chinese rioters at Chi-nan-fu November 28, 1887: Incloses a copy of his note of November 25, 1889, to the yamén, presenting the said claim and of the yamén's reply, dated December 1, 1889, stating that the governor of Shan-Tung has been directed to make a report on the case. Complaint of the American Presbyterian mission at Chi-nan-fu: Incloses a copy of a note of January 10, 1890, from the yamén, stating that a tract of land had been sold to the missionaries in place of the city lot in Chi-nan-fu.	155
1037	Same to same.....	Jan. 26	Claim of Rev. Gilbert Reid: Incloses copies of his note of the 14th instant, to the Yamén, the Yamén's reply of the 18th instant, and his rejoinder of the 24th instant.	156
495	Mr. Blaine to Mr. Denby....	Jan. 31	Complaint of the American Presbyterian mission at Chi-nan-fu: Cites article 17 of the treaty of 1844 and article 12 of the treaty of 1858 between the United States and China concerning property. It is desirable that in seeking establishments in the interior a spirit of patience and moderation should prevail.	160
1045	Mr. Denby to Mr. Blaine....	Feb. 4	Same subject: Incloses a copy of a letter of January 10, 1890, from the missionaries, adducing arguments and facts showing that the purchase of the tract of land in the country had nothing to do with the town lot, and expressing their willingness to accept another lot in the city in place of that which had been taken from them.	161
1049	Same to same.....	Feb. 9	Claim of Louis McCaslin against China: Incloses copies of all his correspondence with the yamén on the subject.	165
498	Mr. Blaine to Mr. Denby....	Feb. 20	Travel certificates: Is inclined to take Mr. Frelinghuysen's position that a travel certificate should only be issued for the particular trip undertaken by the applicant.	173
1058	Mr. Denby to Mr. Blaine....	Feb. 26	Passports and travel certificates: Suggests that the Department issue a circular directed to the United States consuls in China setting forth the manner of applying for passports and of issuing travel certificates. Gives his reasons for making the suggestion. Incloses a form for the proposed circular.	174
1061	Same to same.....	Mar. 6	Passports: Renews the recommendation with regard to a circular embodying full information as to the mode of applying for passports in China.	175
1068	Same to same.....	Mar. 18	Access to the United States for Dr. Alvin F. Hewe, a Chinese subject: Requests information as to the means of procuring the same.	177
510	Mr. Blaine to Mr. Denby....	Mar. 24	Claim of Louis McCaslin: The Chinese Government should not permit a fair and just consideration of the case to be prevented by the misunderstanding between the United States	178

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No.	From and to whom.	Date.	Subject.	Page.
		1890.		
510	Mr. Blaine to Mr. Denby— Continued.	Mar. 24	consul at Ningpo and the taotal, described in a dispatch from the former dated the 12th ultimo, nor allow an adverse judgment of so doubtful a character to stand.	
512	Same to same.....	Apr. 13	Complaint of the American Presbyterian Mission at Chi-nan-fu: Instructs him to assist the missionaries in obtaining another town lot in place of the original one.	179
517	Same to same.....	Apr. 18	Claim of Louis McCaslin: Instructs him to present the claim to the Chinese Government <i>de novo</i> , and to request a reopening of it.	180
1113	Mr. Denby to Mr. Blaine...	May 5	Same subject: Incloses a copy of his note to the yamén, asking for a joint investigation of the case.	181
523	Mr. Blaine to Mr. Denby...	May 6	Passports and travel certificates for Americans in China: Gives instructions with regard to the same and incloses a copy of Department circular to the United States consular officers in China, dated May 1, 1890, on the subject.	182
1114	Mr. Denby to Mr. Blaine....	May 10	Transit passes for goods exported from China: Incloses a copy of a note of this date from the yamén, and of a note of the 9th instant from the German minister to his colleagues, with regard to fixing limits for the duration of transit passes.	184
530	Mr. Blaine to Mr. Denby....	May 17	Access to the United States for Dr. Alvin F. Howe: Incloses a copy of a letter of the 14th instant from the Secretary of the Treasury, stating that the taotal's certificate, properly viséed by the United States minister or consul, would enable Dr. Howe to land in the United States.	186
542	Same to same.....	June 25	Claim of Louis McCaslin: Approves Mr. Denby's note of the 5th ultimo to the yamén on the subject.	187
544	Same to same.....	June 27	Transit passes for goods exported from China: The period of their validity should be determined by agreement between the authorities and the consular representatives of the treaty powers.	187
1123	Mr. Denby to Mr. Blaine....	July 25	Chinese exclusion bill: Incloses a translation of a note of the 16th ultimo from the yamén, discussing the same and protesting against it as a violation of existing treaties, and a copy of his reply of the 23th instant acknowledging its receipt. Chinese enumeration bill: Incloses a translation of a note of the 17th ultimo from the yamén, protesting against the same, and a copy of his reply of the 26th instant acknowledging its receipt.	187
1125	Same to same.....	July 26	Complaint of the American Presbyterian Mission at Chi-nan-fu: Incloses a copy of his letter of the 25th instant to Rev. Gilbert Reid, embodying the substance of Department's No. 512 of April 12, 1890.	192
1125 bis.	Same to same.....	July 26	Claim of Louis McCaslin: Incloses a copy of his note to the yamén, transmitting a translation of Department's No. 517 of April 18, 1890. Will seek an oral interview with the yamén.	193
1140	Same to same.....	Aug. 4	Hydrographic surveys of the ports of China: Incloses a copy of his note of this date to the yamén, maintaining the right of foreign men-of-war to make such surveys.	193
1146	Same to same.....	Aug. 11	Complaint of the American Presbyterian mission at Chi-nan-fu: Incloses a copy of his note to the yamén, notifying them of the willingness of the missionaries to accept another city lot in place of the original one. Claim of Rev. Gilbert Reid vs. China: In the same note Mr. Denby requests the yamén to have a public example made of the ringleaders of the riot in which Mr. Reid was injured, and to indemnify him for his injuries.	195
553	Mr. Wharton to Mr. Denby.	Sept. 24	Segregation of the Chinese in San Francisco: Approves his note of July 26 to the yamén on the subject.	196
556	Same to same.....	Sept. 25	Hydrographic surveys of the ports of China: Approves his note of August 4 to the yamén on the subject.	196

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No.	From and to whom.	Date.	Subject.	Page.
1150	Mr. Denby to Mr. Blaine...	1890. Aug. 16	Marriages between Americans in China: Reports his recent action on a question as to the mode of solemnizing such marriages. The minister is not authorized to perform the ceremony, nor to witness it officially, and can not give a marriage certificate, but a consul can do all three.	197
1151	Same to same.....	Aug. 20	Claim of Rev. Gilbert Reid: Incloses a translation of a note of the 17th instant from the yamén, reiterating its refusal to pay any indemnity to Mr. Reid. Complaint of the American Presbyterian mission at Chi-nan-fu. In the same note the yamén states that the missionaries must accept the country tract in place of the city lot. If they press the matter, the populace may cause trouble.	197
1153	Same to same.....	Aug. 21	Navigation of the Yang-tse River: Incloses a copy of the recent Chun-Khing convention, allowing English sailing vessels to ascend the Yang-tse River as far as Chun-Khing and making Chun-Khing an open port.	199
1155	Same to same.....	Aug. 28	Sze-chuen: Gives a sketch of the history, geography, agriculture, and commerce of the province of Sze-chuen.	201
1161	Same to same.....	Sept. 11	Silver: Gives statistics with regard to silver currency in China, and the rise in the value of silver caused by the passage of the "silver bill" by Congress. Describes the new Chinese silver coinage.	204
1164	Same to same.....	Sept. 26	Silver coinage: A proclamation has been issued making the new Chinese silver coins a legal tender in every part of China.	206
565	Mr. Blaine to Mr. Denby...	Oct. 11	Complaint of the American Presbyterian mission at Chi-nan-fu: Instructs Mr. Denby to keep the matter in sight and to endeavor, in all proper ways, to further the reasonable desires of the missionaries.	206
1181	Mr. Denby to Mr. Blaine...	Oct. 23	Chinese exclusion bill: Incloses a translation of a note of the 19th instant from the yamén, complaining that Mr. Blaine had made no reply to the communications of the Chinese minister at Washington on the subject, and a copy of his reply of the 32d instant, explaining the silence of the Secretary of State.	206
1190	Same to same.....	Nov. 7	Complaint of the American Presbyterian mission at Chi-nan-fu: Incloses a copy of his note of the 1st instant to the yamén, stating that the missionaries are willing to surrender the country tract if they can obtain a suitable lot in the city. Claim of Rev. Gilbert Reid. In the same note of November 1 to the yamén, Mr. Denby states that he does not waive or compromise Mr. Reid's claim for indemnity for injuries done him by the rioters, but considers it still pending and unsettled.	208
571	Mr. Blaine to Mr. Denby...	Dec. 16	Marriages of Americans in China: Approves Mr. Denby's views as to the proper mode of performing the marriage ceremony. Cites the law on the subject.	209

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON.

Mr. Blaine to Mr. Tsui.....	1890. Jan. 31	Transit of Chinese laborers through the United States: It appears by a letter of the 23d instant from the Treasury Department that the Southern Pacific Company, which is said to control a large share of the Chinese transit business, is about to execute the bond provided for by the amendment to the Treasury Department's circular of September 23, 1889, so that the Chinese laborers carried by that company will not be required to give a special bond.	210
Mr. Tsui to Mr. Blaine.....	Feb. 27	Same subject: The opening of one line across the continent to Chinese laborers is not a compliance with the existing treaty stipulations that entitle Chinese subjects to the same privileges of free transit through the territory of the United States as the subjects of the most favored nation. The facts and reasons set forth in his notes of November 5 and December 16, 1889, remain uncontroverted.	210

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Mr. Tsui.....	1890. Mar. 13	Same subject: Has referred Mr. Tsui's note of February 27 to the Secretary of the Treasury.	211
	Mr. Tsui to Mr. Blaine.....	Mar. 26	Chinese exclusion bill: Describes the injustice done by the said bill to Chinese subjects who had left the United States with return certificates in their possession, and who, on their return, were denied permission to land, although they displayed their certificates, many of them having their families and their property in the United States; complains of the difficulties placed in the way of the transit of Chinese laborers, and the interference of the customs officials with the business of Chinese merchants in the United States; contrasts this treatment with the fidelity with which the Chinese Government has recognized and enforced its treaty stipulations towards American merchants and missionaries; cites decisions of the United States Supreme Court, showing that the bill is a violation of existing treaties; asks for information as to the President's views on the subject.	211
	Mr. Pung to Mr. Blaine.....	May 23	Segregation of Chinese subjects in San Francisco: Incloses a copy of an order of the board of supervisors of San Francisco, dated February 17, 1890, prohibiting Chinese, under penalty of imprisonment, from residing or carrying on business in the city and county of San Francisco, except within a certain specified district; complains that a large number of Chinese have been arrested for failure to comply with the provisions of the said order; asks that immediate steps be taken to remedy the injury done to Chinese subjects by the order in violation of the third article of the treaty of 1880.	219
	Mr. Blaine to Mr. Pung.....	May 27	Same subject: Has referred his note of the 22d instant to the Attorney-General; meanwhile the Chinese who have been arrested can obtain relief in the courts.	221
	Mr. Pung to Mr. Blaine.....	June 7	Same subject: Under the treaty of 1880, China consented to surrender certain treaty rights as to immigration upon the express condition and assurance that Chinese subjects in the United States should receive special protection, and that assurance was embodied in article 3. They already possessed the right of appeal to the courts; when Americans in China are threatened with ill treatment at the hands of the local authorities the American minister is prompt to demand the active interposition of the Imperial Government, and the latter has never replied that the American residents must, alone and unsupported by the Imperial power and influence, carry on their contest with the local authorities, but has always promptly interfered to secure to them their treaty rights.	221
	Mr. Blaine to Mr. Pung.....	June 14	Segregation of Chinese subjects in San Francisco: Construes article 3 of the treaty of 1880 to mean that, where existing measures or remedies were found to be insufficient, the United States Government would try to devise others to supply the defect. The American minister in China, when invoking the direct intervention of the Imperial Government for the protection of American citizens in China, has merely followed the course marked out in the treaties in accordance with the system of government prevailing in China. This is no evidence that the said article 3 contemplated that the same course would be pursued in the United States, where the organization of the Government is different. The Attorney-General, in a letter of the 9th instant, expresses the opinion that the ordinance complained of is within the prohibition of the fourteenth amendment to the Constitution, and is also a violation of the treaty stipulations of the United States with China, and it is therefore void. He advises that the proper mode of determining authoritatively that the ordinance has no validity is by application to the United States courts.	223

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Pung to Mr. Blaine	1890. June 23	Segregation of Chinese subjects in San Francisco: Acknowledges the receipt of Mr. Blaine's note of the 14th instant; regrets the variance of their views with regard to the duty imposed upon the United States Government by the third article of the treaty of 1890.	236
	Mr. Tsui to Mr. Blaine.....	Sept. 14	Expulsion of Chinese subjects from Aberdeen, Washington: Has received a telegram from the Chinese consul-general at San Francisco, stating that the Chinese residents of Aberdeen had been notified by the citizens that they must leave the town at once; asks that such measures may be taken by telegraph as will secure the Chinese subjects at Aberdeen the protection to which they are entitled under existing treaties.	236
	Mr. Wharton to Mr. Tsui...	Sept. 16	Same subject: Acknowledges note of 14th instant and telegram of 15th instant; has wired the governor of Washington, stating facts and asking him to prevent any disturbance of order or violation of the rights of the Chinese residing at Aberdeen.	237
	Same to same	Sept. 19	Expulsion of Chinese subjects from Aberdeen, Washington: Has received a telegram from the governor of Washington, saying that he will use every means in his power to prevent any violation of law at Aberdeen.	237
	Mr. Tsui to Mr. Blaine.....	Oct. 1	Chinese exclusion bill: Is surprised not to have received any reply to his note of March 26, 1890. Has been instructed to ask again that early attention be given to that and to previous notes of the legation on the subject. The losses and injuries now being suffered by thousands of his countrymen, owing to the rigorous enforcement of the bill, impel him to redouble his efforts to secure redress. Appeals to the American code of international law for the settlement of the difficulties between China and the United States. His Government requests that he be informed as promptly as possible of the views of the United States Government.	228
	Mr. Blaine to Mr. Tsui.....	Oct. 6	Chinese exclusion bill: The questions presented in the legation's notes have been, and are now, the subject of careful consideration on the part of the United States Government. Hopes to convey to him at an early day, in an ample and formal manner, the President's views in the matter.	229
	Mr. Tsui to Mr. Blaine.....	Dec. 4	Same subject: Is instructed by his Government to convey to Mr. Blaine its disappointment at the adjournment of Congress without having taken any action looking to the repeal or modification of the bill, and to express the hope that during the present session it will take such steps as will assure the Chinese Government of the desire of that of the United States to maintain in full force and vigor the treaties entered into between the two nations.	229

COLOMBIA.

48	Mr. Abbott to Mr. Blaine ...	1889. Dec. 12	Estate of Mrs. S. H. Smith, an American citizen, who died at Colon: The United States consul has requested his good offices in the settlement of the said estate. Recites the facts in the case, the legal questions involved, and the opinion of counsel. Incloses a copy of a letter, dated November 7, 1889, detailing the circumstances, from the United States consul at Colon, and accompaniments, and translations of two letters, dated respectively December 11 and December 13, 1889, from Gutierrez & Escobar, lawyers, of Bogota, giving their legal opinion of the case.	231
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COLOMBIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
43	Mr. Blaine to Mr. Abbott...	1890. Jan. 9	Seizure of American vessels on the San Blas coast for alleged violation of the customs laws of Colombia: Cabled him on the 8th instant to make a full report on the subject.	230
54	Mr. Abbott to Mr. Blaine...	Jan. 11	Same subject: The Colombian Government disclaims any knowledge of any seizures except that of the British schooner <i>Pearl</i> and that of a schooner flying the Dominican flag. There are three classes of ports, viz, free ports, ports "habilitados," and ports not "habilitados." Importations are only permitted into the free ports and the ports "habilitados." Commerce between free ports and ports not "habilitados" is expressly prohibited. Coast trade between ports "habilitados" and ports not "habilitados" is permitted to all vessels carrying merchandise of the country, or foreign merchandise on which the duties have been paid in some port "habilitado." The San Blas coast lies between the free port of Colon and the "habilitado" port of Cartagena. None of its ports are either free or "habilitado," and all direct importations are prohibited and clearly illegal. The vessel making them is subject to confiscation, with its cargo. Consuls certifying to invoices to those ports are liable to fine. Notwithstanding this, the Colombian consul at New York has granted the usual papers to vessels clearing from New York for San Blas ports and other ports not "habilitados," probably with the cognizance of the Colombian Government. Consul has been recently ordered to issue no more such papers.	230
57	Same to same	Jan. 20	Same subject: The New York papers state that the American schooners <i>Willie</i> and <i>Julian</i> , whose owners had, by the advice of the Colombian consul at New York, obtained a special permit to trade on the San Blas coast from the authorities at Colon, have been seized by the Colombian cruiser <i>La Pope</i> for infringement of the customs laws, and taken to Cartagena. Can find no provision of law authorizing such a permit. The minister of foreign affairs says that there is no such law or custom. There seems to be no disposition to confiscate these schooners. They will be allowed to trade on the San Blas coast on payment of the regular customs dues at Cartagena.	240
65	Same to same	Feb. 1	Same subject: No change in the situation. Nothing known about the reported seizure of the <i>Julian</i> and the <i>Willie</i> . Gives a statement of the laws of Colombia relative to importations. Incloses translations of the most important provisions.	241
66	Same to same	Feb. 6	Same subject: Calls attention to the distinction between the free coast and the San Blas coast. Nothing has been heard of the <i>Julian</i> and <i>Willie</i> . The <i>Whitford</i> has arrived at Colon, and was told by the authorities there that she must go to Cartagena and pay her duties in order to obtain permission to trade on the San Blas coast. Incloses translations of decrees relating to the free ports and to frauds on the revenue.	245
48	Mr. Blaine to Mr. Abbott...	Mar. 3	Same subject: A report of the consul at Colon agrees with the results of Mr. Abbott's investigations as to trade on the San Blas coast. Instructs him to see that no American vessel, appearing to have acted in good faith, is subjected to any unnecessary inconvenience or restraint, and to impress upon the Colombian Government the necessity of making its requirements clearly known. Incloses a copy of a letter of the 2d instant from the Department to Foster & Co., the complainants in the case of the <i>Julian</i> , and a translation of the Colombian laws regulating commerce in Colombian waters.	249
71	Mr. Abbott to Mr. Blaine....	Mar. 7	Same subject: The <i>Pearl</i> and the <i>Julian</i> , which latter is said to have sailed under the Dominican flag, are believed to have been released.	253

COLOMBIA—Continued.

No.	From and to whom.	Date.	Subject	Page.
74	Mr. Abbott to Mr. Blaine....	1890. Apr. 18	Same subject: The Colombian Government has issued full and explicit instructions with regard to trade on the San Blas coast. No new regulations have been made. The <i>Jukian</i> has paid the duties on her cargo and sailed for the San Blas coast.	254
77	Same to same.....	Apr. 24	Estate of Mrs. S. H. Smith: Matters are to remain <i>in statu quo</i> until the case can be investigated.	254
67	Mr. Blaine to Mr. Abbott....	May 29	Same subject: Discusses the question as to whether the United States consul at Colon had the right to sell the two houses belonging to the estate. Thinks that he had, under the tenth paragraph of the third article of the consular convention of 1850. Gives reasons for regarding the houses as movable property which the consul had the right to take possession of and sell. Instructs him to maintain the validity of the sale by the consul.	255
95	Mr. Abbott to Mr. Blaine....	July 18	Same subject: The minister of foreign affairs has promised to discuss the matter with him as soon as possible.	258
113	Same to same.....	Aug. 14	Claim of the Boston Ice Company against Colombia: Incloses a copy and translation of that part of the report of the minister of foreign affairs relating to the said claim, and arguing to show that it is unfounded.	258
117	Same to same.....	Aug. 18	Claim of the Panama Star and Herald against Colombia: Incloses a copy and translation of that part of the report of the minister of foreign affairs relating to the said claim, and arguing to show that it was unfounded.	260
94	Mr. Wharton to Mr. Abbott.	Aug. 21	Estate of Mrs. S. H. Smith: Considers the views expressed in Department's No. 67 of May 29, 1890, obviously sound.	261
120	Mr. Abbott to Mr. Blaine....	Aug. 23	Same subject: The minister of foreign affairs, in violation of the agreement entered into by him with Mr. Abbott, has made extended and adverse comments on the Smith case in his biennial report. Had an interview with the minister on the 18th instant, and notified him of Department's instructions. He requested time to consult the President. The following day he received an official note from the minister, dated 14 instant, asking him to forward to the United States for service a process of a local court assuming to settle the estate of Alexander Henry, an American citizen, who died in Colombia several years ago. Feeling that a compliance with this request would be a direct acknowledgment of the right of the court to assume jurisdiction in the case, he returned the process with a note declining to admit the said jurisdiction. Incloses a copy of that part of the report of the minister of foreign affairs relating to the estate of Mrs. S. H. Smith, and of correspondence relating to the estate of Alexander Henry.	263
121	Same to same.....	Aug. 23	Estate of Alexander Henry, a citizen of the United States, who died in Colombia some years ago: Gives a history of the circumstances attending the settlement of said estate; incloses an unsigned copy of a letter dated February 7, 1887, apparently from the legation to the minister of foreign affairs on the subject.	266
114	Mr. Blaine to Mr. Abbott ..	Oct. 10	Estate of Mrs. S. H. Smith: Department finds nothing in the report of the minister of foreign affairs to affect the position taken by it with regard to the interpretation of the tenth paragraph of article 3 of the consular convention of 1850; his arguments are more than anticipated in Department's instructions.	268
115	Same to same.....	Oct. 10	Estate of Alexander Henry: Approves his action in declining to transmit any papers relating to the said estate.	269
120	Mr. Adee to Mr. Abbott....	Oct. 24	Claims of United States citizens against Colombia: Regrets that Colombia has not yet become a party to the general arbitration treaty between the American states. The United States is now forced to recall to the attention of the Colombian Government the necessity of an early settlement of these claims; instructs him to	269

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No.	From and to whom.	Date.	Subject.	Page.
120	Mr. Adee to Mr. Abbott—Continued.	1890. Oct. 24	learn whether the Colombian Government is prepared to give its minister at Washington full authority to take up the discussion of them with the Department.	270
145	Mr. Abbott to Mr. Blaine ..	Oct. 24	Estate of Mrs. S. H. Smith: Relates further steps taken in the case by the judge at Colon; incloses a copy and translation of a note of August 25, 1890, from the minister of foreign affairs, acknowledging the receipt of Mr. Abbott's note of August 23, 1890.	

CORRESPONDENCE WITH THE LEGATION OF COLOMBIA AT WASHINGTON.

Mr. Blaine to Mr. Hurtado .	1890. Jan. 31	Claim of the Panama Star and Herald against Colombia: States the facts in the case: no redress has been made to the claimants, although it is now nearly 4 years since the wrong was committed; thinks that such redress should now be tendered.	272
Same to same.....	May 7	Same subject: Requests a reply to his note of January 31, 1890; hopes to receive a proposition for the settlement of the claim.	273
Mr. Hurtado to Mr. Blaine .	May 9	Same subject: As the wrong complained of was the personal act of General Santo Domingo Villa, and had been disavowed by the Colombian Government, redress should be sought by bringing suit against him in the Colombian courts.	273

FRANCE.

29	Mr. Reid to Mr. Blaine	1890. July 16	Citizenship in France: Gives a synopsis of the new French law of June 20, 1890, relating to nationality.	276
90	Same to same	Nov. 26	Hog products: Arrangements are being made with the French Government for the official inspection of the American pork at the Paris Exhibition.	280
114	Mr. Blaine to Mr. Reid	1890. Mar. 4	Cattle and meat: Incloses a copy of a letter of February 13, 1890, from the Secretary of Agriculture, showing the injustice and the injurious effects of the restrictions placed by certain European governments on the importation of American cattle and meats. Instructs him to try to procure the removal of such restrictions in France.	281
196	Mr. Reid to Mr. Blaine	July 4	Hog products: Incloses a copy of his letter of the 2d instant to the minister of foreign affairs, adducing arguments to show the justice and expediency of repealing the prohibition of the importation of American hog products.	283
201	Same to same	July 11	Same subject: Describes a recent interview with the minister of foreign affairs on the subject; the minister gave him no definite reply.	286
200	Same to same	July 25	Discrimination against American lubricating oils: Incloses a copy of his note of July 9, 1891, to the minister of foreign affairs, transmitting a memorandum of a letter received by Mr. Reid from a large American petroleum importing house, complaining of a proposed discrimination by the French Government in favor of Russian lubricating oils as against those of American origin.	287
210	Same to same	July 28	Hog products: Incloses a copy of a note of the 11th instant from the minister of foreign affairs on the subject, and of his reply of this date, showing the fallacy of the minister's complaints of the McKinley bill.	288
215	Same to same	Aug. 5	Same subject: Gives the substance of his conversation with the minister of foreign affairs on the preceding Saturday.	290

FRANCE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
234	Mr. Reid to Mr. Blaine.....	1890. Aug. 15	Same subject: Relates a conversation with the minister of foreign affairs on the preceding Wednesday; incloses a copy of a memorandum which he had then handed to the minister, showing that, with the exception of Italy, France was the first European nation to exclude American pork.	291
235	Same to same.....	Aug. 21	Discrimination against American lubricating oils: Incloses a copy and translation of a note of the 14th instant from the minister of foreign affairs, explaining the alleged discrimination referred to in Mr. Reid's note of July 2, 1891.	291
176	Mr. Wharton to Mr. Reid...	Sept. 23	Same subject: Regrets that the United States alone of all the petroleum-producing countries must suffer by this discrimination in favor of all countries having the most-favored-nation clause in their commercial treaties with France, and especially of Russia.	292
278	Mr. Vignaud to Mr. Blaine...	Dec. 18	Death of Senator Edmond de Lafayette on the 13th instant: Gives a sketch of his life and character; incloses a table of the descendants of General Lafayette.	294

GERMANY.

21	Mr. Blaine to Mr. Phelps...	1889. Nov. 27	Passports: Calls attention to certain inaccuracies in the passport returns of the legation for the quarter ending September 30, 1889.	297
22	Same to same.....	Dec. 3	Cattle: Incloses a copy of a letter of November 22, 1889, from the Secretary of Agriculture asking for information as to an alleged German law prohibiting the importation of cattle from the United States, and a copy of the Hamburg quarantine law of 1879. Asks for copies of any other German law bearing on the subject.	298
46	Mr. Phelps to Mr. Blaine....	Dec. 17	Passports: Makes explanations with regard to the issue of passports by the legation and asks for certain instructions on the subject.	299
50	Mr. Blaine to Mr. Phelps...	1890. Jan. 10	Passports: Gives the instructions requested in Mr. Phelps's No. 46 of the 17th ultimo.	300
57	Same to same.....	Feb. 1	Passports: Discusses certain questions connected with the issue of a passport by the legation to Mrs. Emilie Heisinger and her minor son Carl.	301
73	Mr. Phelps to Mr. Blaine...	Feb. 15	Labor conference: Incloses copies and translations of two recent decrees relating to the improvement of the condition of the working classes, and directing that all other governments interested in the matter, be invited to a conference on the subject. Incloses, also, a copy and translation of the Emperor's address to the council of state on the same subject.	304
79	Same to same.....	Mar. 1	Samoan treaty: Incloses clippings from German newspapers criticising the treaty.	305
72	Mr. Blaine to Mr. Phelps...	Mar. 4	Cattle and meat: Incloses a copy of a letter of the 18th ultimo from the Secretary of Agriculture, showing the injustice and the injurious effects of the restrictions placed by certain European governments on the importation of American cattle and meat. Instructs him to lay the subject before the German Government, and to remonstrate especially against the quarantine against American cattle, particularly those intended for immediate slaughter.	307
88	Mr. Phelps to Mr. Blaine...	Mar. 25	Cattle and meat: Has been unable to discover any legislation on the subject of the importation of American cattle, hogs, and hog products, except the law of March 3, 1883, prohibiting the importation of American hogs and hog products. Incloses copies of the said law and a copy of his note of the 21st instant to the foreign office, asking for information with regard to the quarantine against American cattle and requesting that the same be abolished.	308

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No.	From and to whom.	Date.	Subject.	Page.
126	Mr. Phelps to Mr. Blaine . . .	1890. June 10	Passports of Americans entering Germany from France: Recommends a certain change in the wording of the notice by the Department on the subject.	310
124	Same to same.....	June 30	Cattle, hogs, and hog products: Incloses a copy of a note of the 23d instant from the foreign office, transmitting copies of the laws in force in Germany affecting the importation of American cattle, hogs, and hog products, and declining to abolish or modify the decrees restricting the importation of American cattle, on the ground that there are diseases existing among the cattle in the United States.	311
122	Mr. Adee to Mr. Phelps.....	July 10	Passports of Americans entering Alsace-Lorraine from France: Incloses copies of the notice by the Department altered in compliance with Mr. Phelps's suggestion in his No. 126 of the 10th ultimo.	316
123	Same to same	July 17	Cattle and meat: Regrets that Germany, in assigning reasons for her policy of exclusion, has again taken the untenable ground that American meats are unhealthful.	317

CORRESPONDENCE WITH THE LEGATION OF GERMANY AT WASHINGTON.

Count von Arco-Valley to Mr. Blaine.	1890. Mar. 2	Samoa treaty: Incloses a copy of a memorandum relative to the execution of certain provisions of the general act of the Samoan conference at Berlin.	317
Mr. Blaine to Count von Arco-Valley.	Mar. 7	Same subject: Incloses a copy of a telegram of the 6th instant, sent by Department to the United States vice-consul at Apia, instructing him to unite with the German and British consuls in the execution of certain articles of the Samoan treaty.	318
Count von Arco-Valley to Mr. Blaine.	May 1	Tonnage dues: On the 26th of January, 1888, the President issued a proclamation suspending the collection of the whole of the duty of 6 cents per ton, not to exceed 30 cents per ton per annum, upon vessels entered in the ports of the United States from any of the ports of the German Empire. The Commissioner of Navigation decided that only such German vessels as sail "direct" from German ports to the United States ports are exempted from the payment of tonnage dues. The legation, in a note of February 25, 1888, protested against this decision as a direct violation of the President's proclamation, and the Secretary of State, in his note of February 28, 1888, promised a speedy remedy, and a detailed reply to the protest. No reply has been received; asks that it may be now made.	318
Mr. Blaine to Count von Arco-Valley.	May 26	Tonnage dues: The question to which Count Arco's note of the 1st instant relates has been made the subject of a suit in the courts which has not yet been decided. The Commissioner of Navigation did not decide that only such German vessels as sail directly from German ports to ports in the United States should be exempt from tonnage dues. The cases of vessels not coming direct to the United States were reserved by him for consideration. It was not the intent, either of the law or the proclamation, to allow vessels trading with England, France, or other foreign countries to be exempted from tonnage dues merely because they sail originally from ports in Germany.	319
Same to same.....	Dec. 1	Tonnage dues: Incloses a copy of a circular of November 26, 1890, issued by the Commissioner of Navigation, stating that the fact that a vessel touches at an intermediate port at which it neither enters nor clears will not deprive such vessel of the rights derived from sailing from a free port, such being its port of departure.	320

GREAT BRITAIN.

No.	From and to whom.	Date.	Subject.	Page.
141	Mr. Blaine to Mr. Lincoln..	1889. Dec. 6	Taxation of American missionaries in Burmah: Incloses a copy of a letter of October 15, 1889, from Rev. A. Bunker, an American missionary in Burmah, complaining that the Government of India not only taxes the allowances which the missionaries receive from the United States missionary boards, but has now issued a new order requiring them to pay an income tax on all moneys paid for the support of their families in the United States. Instructs Mr. Lincoln to lay the matter before the British Government.	321
	Mr. Blaine to Mr. White (telegram).	Dec. 30	Boundary dispute between Great Britain and Venezuela: Authorizes him to confer with Lord Salisbury concerning the reestablishment of diplomatic relations between Great Britain and Venezuela upon the basis suggested by the Venezuelan minister, of temporary restoration of the <i>status quo</i> .	322
151	Mr. Lincoln to Mr. Blaine..	1890. Jan. 6	Discrimination against American vessels at Halifax in the matter of compulsory pilotage: Incloses a copy of a note of the 3d instant, from the foreign office, transmitting an extract from a report of a committee of the privy council of Canada stating that all British and foreign vessels coming from foreign ports and over 50 tons register pay pilotage dues at Halifax.	322
184	Same to same.....	Feb. 19	Passport for Samuel B. Oliver: Incloses a copy of his letter of the 14th instant to the United States consul at Liverpool, giving his reasons for declining to issue such passport.	329
215	Mr. Blaine to Mr. Lincoln..	Mar. 19	Same subject: Approves Mr. Lincoln's views on the subject, but will consider any statement that Mr. Oliver may make, either directly or through the legation.	324
197	Mr. Lincoln to Mr. Blaine..	Mar. 20	Taxation of American missionaries in Burmah: Incloses a copy of the legation's note of December 18, 1889, to Lord Salisbury on the subject, and of the latter's reply of the 18th instant, transmitting copies of documents received from the Government of India, and expressing regret that the Government of India, after a full consideration of the case, is unable to make an exception in favor of the missionaries.	325
219	Mr. Blaine to Mr. Lincoln..	Mar. 24	Passport for F. C. Van Duzer: Incloses a copy of a letter of the 5th instant, from F. C. Van Duzer, complaining that the legation had declined to issue him a passport because he could not state at what time he expected to return to the United States with the purpose of residing there; gives certain instructions for Mr. Lincoln's guidance and leaves the disposition of the case to his judgment.	328
203	Mr. Lincoln to Mr. Blaine..	Mar. 28	Traveling certificate issued by the State of Minnesota to Louis Wagner: Incloses a copy of the said document, which was presented at the legation this day by Mr. Wagner, he supposing it to be a regular passport.	330
204	Same to same.....	Mar. 31	Passport for Samuel B. Oliver: Has sent Mr. Oliver a copy of Department's No. 215 of the 19th instant, through the United States consul at Liverpool.	331
212	Same to same.....	April 9	Passport for Samuel B. Oliver: Incloses a copy of a letter of the 8th instant from the United States consul at Liverpool, stating that he has communicated the contents of Department's No. 215 to Mr. Oliver's father, Mr. Oliver himself being now in Portugal.	331
213	Same to same.....	April 9	Passport for Mr. H. C. Quinby: Mr. Quinby has written to the legation asking for a copy of the instructions relating to passports, for the expressed purpose of writing "a statement of the case to one of the Boston papers," "the case," being the legation's refusal to issue him a passport on account of his declining to state in his application at what time he intends to return to the United States to reside. Has written to Mr. Quinby, declining to send him an official blank for such a purpose. Incloses a copy of a memorandum of March 1, 1890, written by the	331

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GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
213	Mr. Lincoln to Mr. Blaine— Continued.	1890. April 9	second secretary of legation, showing that Mr. Quincy had informed him that he never expected to return to the United States to resume the duties of citizenship.	
233	Mr. Blaine to Mr. Lincoln..	April 10	Traveling certificate issued to Louis Wagner by the State of Minnesota: Incloses copies of correspondence relating to a similar case at Vienna.	332
237	Same to same.....	April 14	Taxation of American missionaries in Burmah: Asks for two additional copies of the printed document accompanying his No. 197 of the 26th ultimo.	334
242	Same to same.....	April 18	Traveling certificate issued to Louis Wagner by the State of Minnesota: Incloses a copy of a letter of the 11th instant from the governor of Minnesota, stating that no more such papers will be issued.	335
251	Same to same.....	April 30	Passport for H. C. Quincy: Approves his refusal to furnish Mr. Quincy an official blank form to be used for the sole purpose of writing to a newspaper. Mr. Quincy can see the blank forms of applications for passports and the printed instructions to applicants at the United States consulate at Liverpool. Mr. Quincy's actual status is only a matter of inference. He has simply declined to make application for a passport. Had he filled out the blank form offered him, with a declaration of his intention never to return to the land whose protection he craves, it would have been easy to deal with his application.	335
	Same to same (telegram)....	May 1	Boundary dispute between Great Britain and Venezuela: Instructs him to use his good offices with Lord Salisbury to bring about the resumption of diplomatic intercourse between Great Britain and Venezuela, and to propose to Lord Salisbury an informal conference of representatives of the three powers in Washington or London.	337
	Mr. Lincoln to Mr. Blaine (telegram).	May 5	Same subject: Lord Salisbury suggests that the termination of diplomatic relations was due to the action of Venezuela, and, with regard to a settlement of the matter, he intimated a doubt of the stability of the Venezuelan Government.	337
229	Same to same.....	May 5	Same subject: Describes his interview of this date with Lord Salisbury, in which he conveyed to him the substance of Department's telegram of the 1st instant. Lord Salisbury said that he would consider the suggestion of a conference after he had consulted the colonial office. Incloses a copy of his note of this date to Lord Salisbury, making the formal proposition that an informal conference of representatives of Great Britain, Venezuela, and the United States be held either in Washington or London, with a view to the resumption of diplomatic relations between Great Britain and Venezuela.	337
255	Mr. Blaine to Mr. Lincoln..	May 6	Boundary dispute between Great Britain and Venezuela: Instructs him to do all in his power, consistently with an attitude of impartial friendliness, to arrive at some agreement between the two Governments, by which the rights of each may be secured. Incloses copies of recent communications from the United States minister at Caracas and the Venezuelan minister at Washington, and of Senate document No. 226, first session, Fiftyeth Congress, on the subject.	339
264	Same to same.....	May 19	Boundary dispute between Great Britain and Venezuela: Incloses a copy of dispatch, No. 100 of the 3d instant from the United States minister at Caracas, transmitting a sketch map of the disputed boundary between British Guiana and Venezuela.	339
267	Same to same.....	May 21	Same subject: Has communicated to the Venezuelan minister at Washington the substance of Mr. Lincoln's No. 229 of the 5th instant and sent a copy of it to the United States minister at Caracas.	340
270	Same to same.....	May 25	Same subject: Incloses a copy of a note of the 20th instant from the Venezuelan minister at Washington.	340

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
249	Mr. Lincoln to Mr. Blaine..	1890. May 28	Same subject: Incloses a copy of a note of the 26th instant from Lord Salisbury, giving his reasons for declining the offers of the good offices of the United States in the matter.	340
267	Same to same.....	June 25	Boundary dispute between Great Britain and Venezuela: Describes negotiations ending in his presenting to Lord Salisbury this day Señor Pulido, the Venezuelan minister, on special mission to Great Britain.	341
276	Same to same.....	July 9	Passport for H. C. Quinby: Mr. Quinby called at the legation this day and presented his application for a passport, said application stating that he intended never to return to the United States with the purpose of residing and performing the duties of citizenship therein. Mr. Lincoln declined to issue him a passport. Incloses a copy of the application and of a letter of April 9, 1891, from Mr. Quinby to the Boston Post.	342
320	Mr. Wharton to Mr. Lincoln	June 25	Services rendered by the British consul-general at Tabriz, Persia, and the British minister to Persia in the case of the murder of Mrs J. N. Wright, the wife of an American missionary in Persia. Instructs him to express to the foreign office the Department's high appreciation of the services rendered by the said officers in securing the arrest of the criminal. Incloses extracts from No. 456 of May 24, and 459 of June 3, 1890, from the United States minister at Teheran.	344
350	Same to same.....	Sept. 2	Claim of William Webster against Great Britain: In legation's No. 638 of December 10, 1887. Mr. Phelps inclosed to the Department printed copies of a memorandum of Sir Robert Stout, governor of New Zealand, concerning the claims of William Webster, a United States citizen, to certain lands in New Zealand, in reply to a report of the Committee on Foreign Relations of the United States Senate. That committee, after considering the reply, recommended the claim to the President as worthy of consideration and requested that it be made the subject of further negotiation with the British Government. Incloses a memorandum stating all the facts in the case, and giving Department's reasons for being unable to accept the conclusions arrived at in Sir Robert Stout's memorandum. Instructs him to present the claim to the British Government.	344
373	Mr. Blaine to Mr. Lincoln..	Oct. 22	Chinese immigration from Canada and Mexico: Instructs him to sound the British Government as to its willingness to enter into negotiations to the end of securing treaty stipulations for the prevention of the entry into the United States of Chinese laborers from Canada, and of insuring a reasonable uniform application of measures for the prevention of Chinese labor immigration in the United States, Canada, and Mexico.	
340	Mr. White to Mr. Blaine....	Nov. 6	Same subject: Gives the substance of his interview of the 6th instant with Lord Salisbury. The latter stated that the subject was entirely new to him, and that, before expressing an opinion on the subject, it would be necessary for him to ascertain the views of the Canadian government.	

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Edwardes to Mr. Blaine.	1889. Aug. 24	Seizure of British sealing vessels in Behring Sea: Rumors have reached the British Government that United States cruisers have stopped, searched, and even seized British vessels in Behring sea outside of the 3-mile limit from the nearest land. Asks that stringent instructions be sent to the United States officers, with a view to prevent the possibility of such occurrences taking place. Mr. Bayard last year assured the British Government that, pending the discussion of the several questions at issue, no further interference should take place with British vessels in Behring Sea. Sir Julian Pauncefote, on his return to Washington, will be prepared to discuss the whole question.	358
	Mr. Blaine to Mr. Edwardes.	Aug. 24	Same subject: The United States Government has received no official information regarding such seizures. It is the earnest desire of the President to have such an adjustment as shall remove all possible ground of misunderstanding with the British Government concerning the existing troubles in Behring Sea. He believes that the responsibility for delay in the adjustment can not properly be charged to the United States Government. The latter will endeavor to be prepared for the discussion of the whole question when Sir Julian Pauncefote returns.	359
	Mr. Edwardes to Mr. Blaine.	Aug. 25	Seizure of British sealing vessels in Behring Sea: Will communicate to his Government Mr. Blaine's note of the 24th instant.	359
	Same to same	Sept. 12	Same subject: Asks for a reply to the request contained in his note of the 24th ultimo, that instructions be sent to Alaska to prevent the possibility of the seizure of British ships in Behring Sea.	360
	Mr. Blaine to Mr. Edwardes.	Sept. 14	Same subject: A categorical reply to his request that certain instructions be sent to Alaska would be unjust to the United States Government and misleading to the British Government. The President prefers to remand the whole subject to the formal discussion agreed upon. Any instructions sent to Behring Sea at the time of the original request (August 24) would have failed to have arrived there before the proposed departure of the United States cruisers.	360
	Lord Salisbury to Mr. Edwardes.	Oct. 2	Seizure of British sealing vessels in Behring Sea: The negotiations proposed by the United States regarding a close time for the seal fishery were suspended in consequence of objections raised by Canada. Sir Julian Pauncefote will be furnished with the requisite instructions, if Mr. Blaine wishes to resume them.	361
	Same to same	Oct. 2	Same subject: Incloses a copy of a dispatch of August 26, 1889, from the governor-general of Canada, and accompanying documents, relative to the seizure of the Canadian vessels <i>Black Diamond</i> and <i>Triumph</i> by the United States revenue cutter <i>Kush</i> in Behring Sea in July, 1889. Mr. Bayard gave an unofficial assurance that no more seizures of this character should take place pending the discussion of the questions involved by the two governments. Protests against them, and considers them wholly unjustified by international law.	362
	Mr. Edwardes to Mr. Blaine.	Oct. 14	Seizure of British sealing vessels in Behring Sea: The assurance to which Lord Salisbury referred in his dispatch of the 2d instant was given unofficially to Lord Salisbury by the United States minister in London, and by Mr. Bayard to Sir Lionel West in April, 1888.	363
	Mr. Blaine to Sir Julian Pauncefote.	1890 Jan. 22	Same subject: The Canadian vessels arrested were engaged in a pursuit which was, in itself, "contra bonos mores," and involving a serious and permanent injury to the rights of the Government and people of the United States. The seal fisheries of Behring Sea are one of the most valuable sources of revenue from the Alaskan possessions. They were exclusively controlled	363

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Sir Julian Pauncefote—Continued.	1890. Jan. 22	by Russia, without interference, from their original discovery until the cession of Alaska to the United States in 1867. They were enjoyed by the United States, without intrusion from any source, from 1867 to 1886. Vessels from other nations passing through Behring Sea had always abstained from the capture of seals in recognition of the right held and exercised, first by Russia and afterwards by the United States, and in recognition of the fact, now held beyond denial or doubt, that the taking of seals in the open sea rapidly leads to their extinction, because it involves the destruction of the female in common with the male. The United States Government, through competent agents, by close obedience to the laws of nature, and by rigidly limiting the number to be annually slaughtered, succeeded in increasing the number of the seals and the value of the fisheries. The company to which the fisheries were leased sent the skins to London to be dressed and prepared, and the amount thereby earned by English laborers since 1867 amounts in the aggregate to more than \$12,000,000. In 1886 certain Canadian vessels asserted their right to enter, and by their ruthless course to destroy the fisheries. The United States Government at once proceeded to check this movement, and was surprised that the British Government should immediately interfere to defend and encourage the course of the Canadians. So great has been the injury to the fisheries from the irregular and destructive slaughter of seals in the open waters of Behring Sea by Canadian vessels that, whereas the Government had allowed 100,000 seals to be killed annually for a series of years, it is now compelled to reduce the number to 60,000. The British Government defends the course of the Canadian vessels on the ground that they are committing their acts of destruction on the high seas, that is to say, more than 3 marine miles from the shore line. The British Government would hardly abide by this rule if the attempt were made to interfere with the pearl fisheries of Ceylon, which extend more than 20 miles from the shore line, and which have been enjoyed by England without molestation ever since their acquisition; nor would it permit destructive modes of fishing on the Grand Banks, on the plea that the vicious acts were committed more than 3 miles from shore. The law of the sea, and the liberty which it confers, can not be perverted to justify acts which are immoral in themselves, and which inevitably tend to results against the interests and welfare of mankind. One step beyond the position which the British Government has taken in this matter, and piracy finds its justification. The President awaits any proposition for a reasonable adjustment that the British Government may submit. He regards the forcible resistance to which the United States is constrained in Behring Sea as demanded, not only by the necessity of defending the rights of the United States, but those, also, of good morals and good government throughout the world. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska belonged to Russia, nor is it disposed to exercise any less power or authority in those possessions than it was willing to concede to Russia when they were here.	
	Sir Julian Pauncefote to Mr. Blaine.	Feb. 10	Seal fisheries in Behring Sea: The British Government is willing to adopt Mr. Blaine's suggestion that the negotiations between Great Britain, Russia, and the United States, regarding the establishment of a close time for the seal fisheries in Behring Sea, be resumed at Washington.	370

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CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1890.		
	Mr. Blaine to Sir Julian Pauncefote.	Mar. 1	Same subject: Incloses copies of evidence showing that the killing of seals in the open sea tends certainly and rapidly to the extermination of the species.	370
	Sir Julian Pauncefote to Mr. Blaine.	Mar. 9	Same subject: Incloses a memorandum prepared by Mr. Tupper in reply to Mr. Blaine's note of the 1st instant, and a note on the question of the protection of the fur seal in the North Pacific, by George Dawson.	382
	Same to same.....	Mar. 24	Samoa: Gives the substance of certain instructions which have been sent to the British consul at Apia with regard to the execution of certain provisions of the general act of the Samoan conference at Berlin.	408
	Mr. Blaine to Sir Julian Pauncefote.	Mar. 26	Samoa: The instructions sent to the British consul at Apia appear to agree with the proposition submitted to Mr. Blaine by the German minister at Washington on the 2d instant and with the telegraphic instructions sent to the United States vice-consul at Apia on the 6th instant.	408
	Same to same.....	Apr. 8	Samoa: The President thinks that the appointment of a chief justice for Samoa by the King of Sweden would tend to create greater harmony in Samoa than the appointment of that officer by any one of the signatory powers.	400
	Sir Julian Pauncefote to Mr. Blaine.	Apr. 30	Seal fisheries in Behring Sea: Mr. Tingle, the United States agent, in 1887 reported that the number of the seals was on the increase, and, in 1888, that there were as many seals on the rookeries as in 1887. Mr. Elliott affirms that the natural increase of the fur-seal species is so rapid that Behring Sea itself could not contain them if they were not preyed upon by submarine foes. Mr. Tupper has shown in his memorandum that the destruction of seals caused by pelagic sealing is insignificant in comparison with that caused by their natural enemies, and he gives figures showing their marvelous increase in spite of the depredations complained of. Proposes that a mixed commission of experts be appointed to make investigations in the region of the seal fisheries, as to whether any restrictions on pelagic sealing are necessary for the preservation of the fur-seal species, and, if so, as to the character and extent of such restrictions; and that, pending such investigations, pelagic sealing be prohibited in Behring Sea, the Sea of Ochotok, and the adjoining waters, during the months of May, June, October, November, and December; and that all sealing vessels be prohibited from approaching the breeding islands within a radius of 10 miles. Incloses a draft of a preliminary convention providing for the appointment of such mixed commission, regulations, arbitration, seal-fishery line and a close time for the seal-fisheries, etc. Incloses, also, an extract from a pamphlet entitled "Fur-seal Fisheries of the Pacific Coast and Alaska," and affidavits of certain seal hunters, showing that comparatively few of the seals wounded by spears or firearms are lost.	410
	Same to same.....	May 10	Extradition: Incloses a copy of a dispatch of April 1, 1890, from the governor-general of India, in council, transmitting the forms of certificate proposed to be adopted in British India in support of applications for the extradition from the United States of fugitives from justice. Asks if such certificates will be accepted as sufficient by the United States courts.	417
	Mr. Blaine to Sir Julian Pauncefote.	May 15	Extradition: The form of certificate inclosed in Sir Julian's note of the 10th instant is in accordance with that prescribed by the Department for the use of the legation in London. Copies of it will be sent to the United States consular officers in those parts of the British dominions in which they may be called upon to certify extradition papers. It is the best that could be devised under the circumstances.	419

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Lord Salisbury to Sir Julian Panncofote.	1890. May 22	Seizure of Canadian sealing vessels in Behring Sea: It is an axiom of international law that the seizure on the high seas and subsequent confiscation in time of peace of the private vessels of a friendly nation is only admissible in the case of piracy or in pursuance of special international agreement. Cites President Tyler's message of February 27, 1843. The pursuit of seals in the open sea has never hitherto been considered piracy by any civilized state. In the case of the slave trade, the right of arresting the vessels of another country is exercised only by special international agreement; must question whether the killing of fur seals can of itself be regarded as <i>contra bonos mores</i> , unless and until, for special reasons, it has been agreed by international arrangement, to forbid it; cites facts and adduces arguments to prove that the United States had always denied the exclusive right of Russia to the whaling and fishing in Behring Sea; is unable to admit that the case put forward on behalf of the United States affords any sufficient justification for the forcible action which it has taken against peaceable British subjects engaged in lawful operations on the high seas. Incloses a memorandum showing that from 1867 to 1886 British vessels were engaged at intervals in the fur-seal fisheries with the cognizance of the United States Government.	419
	Sir Julian Panncofote to Mr. Blaine.	May 23	Seal fisheries in Behring Sea: A statement having appeared in the newspapers, and having been confirmed by Mr. Blaine, that the United States revenue cruisers have received orders to proceed to Behring Sea to prevent the exercise of the seal fishery by foreign vessels in nonterritorial waters, he is instructed to state that a formal protest by the British Government against any such interference with British vessels will be forwarded to Mr. Blaine without delay.	424
	Mr. Blaine to Sir Julian Panncofote.	May 26	Same subject: Acknowledges the receipt of Sir Julian's note of the 23d instant.	424
	Same to same	May 29	Same subject: Is instructed by the President to protest against the course of the British Government in authorizing, encouraging, and protecting vessels which are not only interfering with American rights in Behring Sea, but which are doing violence as well to the rights of the civilized world. The President is surprised that such protest as the one announced in Sir Julian's note of the 23d instant should be authorized by Lord Salisbury, because his previous declarations would seem to render it impossible. On the 11th of November, 1887, Lord Salisbury, in an official interview with the American minister, cordially agreed that "a code of regulations should be adopted for the preservation of the seals in Behring Sea from destruction at improper times by improper means by the citizens of either country," and suggested that Mr. Phelps "should obtain from his Government, and submit to him, a sketch of a system of regulations which would be adequate for the purpose." Mr. Phelps submitted the regulations which the United States desired, and reported to Mr. Bayard that Lord Salisbury assented to the proposition to establish a close time for fur seals between April 15 and November 1, and between 160 degrees west longitude and 170 degrees east longitude, in Behring Sea, and would cause an act to be introduced into Parliament to give effect to the arrangement, so soon as it could be prepared; and would also join the United States Government in any preventive measures which it might be thought best to adopt, by orders issued to the naval vessels of the respective governments in Behring Sea. Recites subsequent assurances given by Lord Salisbury to the American minister, the American charge, and	425

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Sir Julian Pauncefote—Continued.	1890. May 29	the Russian minister, relative to a close time, up to April 23, 1888. On the 28th of April, 1888, the American chargé was informed that nothing could be done until Canada was heard from. Describes the efforts made by the American legation in London to complete the arrangement for a close time, terminating in September, 1888, in Lord Salisbury's stating that the Canadian Government objected to any such restrictions, and that, until its consent could be obtained, the British Government was not willing to enter into the convention. Proceeds to show how subsequent negotiations between the Department and Sir Julian were broken off by the interposition of Canada. Contrasts the propositions made by Lord Salisbury in 1888 with those made by Sir Julian in 1890. The circumstances are the same, but the position of England has changed because the wishes of Canada have demanded the change. The close time proposed by Sir Julian leaves open the months of July, August, and September, during which the areas around the breeding islands are most crowded with seals, and especially with female seals going forth to secure food for their young, and whose destruction would involve the destruction of their young. The 10-mile limit would give the marauders the vantage ground for killing the seals that are in the water by tens of thousands, searching for food. The President proposes that the British Government agree not to permit the sealing vessels to enter Behring Sea this season, in order that time may be secured for negotiation.	
	Same to same.....	June 2	Seal fisheries in Behring Sea: The President is of the opinion that an arbitration can not be concluded in time for this season, and desires to know whether Lord Salisbury will make, for a single season, the regulation which in 1888 he offered to make permanent.	429
	Sir Julian Pauncefote to Mr. Blaine.	June 3	Same subject: The British Government is not prepared to agree to the regulation excluding British sealing vessels from Behring Sea during the present seal-fishery season, as, apart from other considerations, there would be no legal power to enforce its observance on British subjects and British vessels.	430
	Mr. Blaine to Sir Julian Pauncefote.	June 4	Seal fisheries in Behring Sea: If Sir Julian's suggestion that British sealing vessels be allowed to kill seals within 10 miles of the Pribilof Islands directly after the mothers are delivered of their young be granted, Behring Sea would swarm with sealing vessels throughout the summer months. The seal mothers, which require an area from 40 to 50 miles from the islands, would be slaughtered by hundreds of thousands, and there would soon be no seals in Behring Sea. Seal rookeries in all parts of the world have been destroyed in that way. Mr. Tingle, in his official report to the Treasury Department at the close of the season of 1887, states that not more than one seal out of every ten killed or mortally wounded is landed on the boats and skinned. The President is greatly disappointed that, even for the sake of securing an impartial arbitration of the matter, the British Government is not willing to suspend for a single season the practice which Lord Salisbury described in 1888 as "the wanton destruction of a valuable industry."	430
	Sir Julian Pauncefote to Mr. Blaine.	June 6	Seal fisheries in Behring Sea. Has transmitted to Lord Salisbury a copy of Mr. Blaine's note of the 4th instant.	432
	Same to same.....	June 9	Same subject: It is out of the power of the British Government to exclude British or Canadian vessels from any part of the high seas, without legislative sanction. Lord Salisbury does not think that he could have used the expressions attributed to him in the context mentioned.	433

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Sir Julian Pauncefote.	1890. June 11	Same subject: It would satisfy the United States Government if Lord Salisbury would, by public proclamation, simply request that vessels sailing under the British flag will abstain from entering Behring Sea during the present season. This would give time for impartial negotiations.	433
	Sir Julian Pauncefote to Mr. Blaine.	June 11	Seal fisheries in Behring Sea; Has telegraphed to Lord Salisbury Mr. Blaine's communication of this date. Trusts that instructions will be sent to the United States revenue cruisers to abstain from interference with British vessels. It is in that hope that he has delayed delivering the formal protest announced in his note of May 23.	434
	Same to same.	June 14	Same subject: Incloses his formal protest against any interference with the vessels of British subjects on the part of the United States revenue cruisers in Behring Sea. The British Government must hold that of the United States responsible for the consequences which may ensue from acts which are contrary to the established principles of international law.	435
	Same to same.	June 27	Same subject: The British Government can only accede to the President's request contained in Mr. Blaine's note of the 11th instant on condition that the question of the legality of the action of the United States Government in Behring Sea in 1886, 1887, and 1889 be forthwith referred to arbitration; that pending the award all interference with British sealing vessels shall absolutely cease; and that the United States Government, if the award should be adverse to it on the question of legal right, will compensate British subjects for the losses which they may sustain by reason of their compliance with the British proclamation.	436
	Mr. Blaine to Sir Julian Pauncefote.	June 30	Seal fisheries in Behring Sea: Lord Salisbury, in his dispatch of May 22, contends that Mr. John Quincy Adams, when Secretary of State, in a dispatch of July 23, 1823, to the United States minister at St. Petersburg, protested against the jurisdiction which Russia claimed over the waters of Behring Sea, and quotes Mr. Adams's words. The quotation is most defective, erroneous, and misleading. Out of eighty-four words, thirty-five are dropped, and those dropped are precisely the words on which the United States Government founds its argument in this case. Mr. Adams says that Russian rights "are confined to certain islands north of the fifty-fifth degree of latitude, and have no existence on the continent of America." If taken literally there was no such thing as "Russian possessions in America." Gives a review of certain public transactions and states certain facts, showing that Mr. Adams was drawing the distinction between the territory of "America" and the territory of the "Russian possessions," "America" and the "United States" being then, as now, commonly used as synonymous. Quotes Mr. Adams's diary under July 17, 1823, and President Monroe's message of December 2, 1823, to prove that the whole dispute between the United States and Russia and between Great Britain and Russia related to the northwest coast between the "50th and the 60th degrees of north latitude." Neither in the treaty of 1824 between the United States and Russia, nor in that of 1825 between Great Britain and Russia, was there any attempt at regulating or controlling, or even asserting an interest in, the Russian possessions and Behring Sea, which lie far to the north and west of the territory which formed the basis of the contention. Gives the text of a memorandum handed by the American minister, Mr. Middleton, to Count Nesselrode, the Russian representative, at the fourth conference of the plenipotentiaries, March 8, 1824, and of the four principal articles of the treaty of 1824.	437

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Sir Julian Pauncefote—Continued.	1890. June 30	between Russia and the United States, showing the distinction made between the "Pacific Ocean" and "Behring Sea," and between the "northwest coast" and the "Russian possessions." Gives the text of articles III, VI, and VII of the treaty of 1825 between Russia and Great Britain, and argues to show that by that treaty Great Britain was excluded from all rivers emptying into Behring Sea, including the Yucou and the Porcupine, which rise and for a long distance flow in British America. Both the said treaties left untouched and unquestioned the ukase of 1821, in which the Emperor of Russia set forth clearly the rights claimed and exercised by Russia in Behring Sea, and were therefore a practical renunciation, on the part of Great Britain and the United States, of any rights in the waters of Behring Sea during the period of Russian sovereignty. The ukase of 1821 did not declare Behring Sea to be "mare clausum," but it did declare that the waters, to the extent of 100 miles from the shores, were reserved for the subjects of the Russian Empire. The treaties of 1843 and 1859 between Great Britain and Russia gave Great Britain no right to take fur seals in Behring Sea. They were, in fact, a prohibition upon her, which she respected as long as Alaska was a Russian province. Lord Salisbury quotes the case of the <i>Loriot</i> as having some bearing on the Behring Sea question. The <i>Loriot</i> was not arrested in Behring Sea, nor was she engaged in taking furs. She was arrested in latitude 54° 65', on the "northwest coast," to which, and to which only, the treaty of 1824 referred. Lord Salisbury says that the British vessels were engaged in capturing seals in Behring sea. The cases which he mentioned form just a sufficient number of exceptions to establish the fact that the destructive intrusion began in 1883. He does not attempt to cite the intrusion of a single British sealer into Behring Sea until after Alaska had been transferred to the United States. The questions, therefore, in Mr. Blaine's note of January 22, 1890, still remain unanswered, viz: Whence did the ships of Canada derive the right to do, in 1886, that which they had refrained from doing for nearly 90 years? Upon what grounds did the British Government defend, in 1886, a course of conduct in Behring Sea which had been carefully avoided ever since the discovery of that sea? By what reasoning did the British Government conclude that an act may be committed with impunity against the rights of the United States, which had never been attempted against the same rights when held by Russia?	
	Sir Julian Pauncefote to Mr. Blaine.	June 30	Seal fisheries in Behring Sea: Incloses a copy of a dispatch of the 20th instant from Lord Salisbury, stating facts and quoting correspondence to show that there is some error in Mr. Blaine's impressions with regard to the negotiations in 1888, as given in Mr. Blaine's note of May 20, 1890.	449
	Same to same	June 30	Same subject: Mr. Blaine states, in his note of the 4th instant, that Lord Salisbury abruptly closed the negotiations in 1888 because "the Canadian Government objected," and that he "assigned no other reason whatever." Lord Salisbury calls attention to a statement made to him by Mr. Phelps on the 24 of April, 1888, that, "under the peculiar political circumstances of America at this moment, with a general election impending, it would be of little use, and indeed hardly practicable, to conduct any negotiation to its issue before the election had taken place."	451
	Mr. Blaine to Sir Julian Pauncefote.	July 2	Seal fisheries in Behring Sea: Note of 27th ultimo received. An agreement to arbitrate requires careful consideration. British claims for injuries and losses would be included in the arbit-	452

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Sir Julian Pauncefote—Continued.	1890. July 3	tration. The answer to the President's request comes too late to proceed with the negotiation this season.	
	Same to same.....	July 19	Same subject: Two notes of June 30 received. States facts and quotes correspondence showing that Mr. Blaine was warranted in stating in his note of May 29, 1890, that Lord Salisbury had given such "verbal assurances" to Mr. Phelps as justified the latter in expecting a convention to be concluded between Great Britain and the United States for the protection of the seal fisheries in Behring Sea. Quotes Lord Salisbury's language of February 25, 1888, as given by Mr. Phelps, assenting to a close time between April 15 and November 1 each year, and promising to cause an act to be introduced in Parliament to give effect to that arrangement. Conference of April 16, 1888, between Lord Salisbury, the United States chargé, Mr. White, and the Russian ambassador, at which Lord Salisbury assured the latter that the protected area for seal life should be extended southward to the forty-seventh degree of north latitude, and promised to have a draft convention prepared for submission to the Russian ambassador and the American chargé. The United States is willing to consider all the proceedings of April 16, 1888, canceled, if Great Britain will adhere only to the agreement made between Lord Salisbury and Mr. Phelps February 25, 1888. Lord Salisbury makes a general denial of having given "verbal assurances," but no special denial touching the agreement between himself and Mr. Phelps. Lord Salisbury gives Mr. Phelps's remark of April 3, 1888, relative to the impending election, as one of the causes for closing the negotiations in 1888. This might be adduced as one of the reasons had not Lord Salisbury immediately proceeded with the negotiations, as shown by his note of April 6, 1888, to the American chargé, the conference of April 16, and subsequent correspondence. On the 28th of April Mr. White was informed that "neither act nor order could be drafted until Canada is heard from." Lord Salisbury's statement of September 12, 1888, to Mr. Phelps, that "the Canadian Government objected to any such restrictions, and that, until Canada's consent could be obtained, Her Majesty's Government was not willing to enter into the convention." The President regards the interposition of the wishes of a British province to prevent the conclusion of a convention which had been virtually agreed upon, except as to details, as a grave injustice to the Government of the United States.	453
	Lord Salisbury to Sir Julian Pauncefote.	Aug. 2	Seal fisheries in Behring Sea: States facts and quotes correspondence to show that the words omitted in his quotation from Mr. Adams's dispatch of July 22, 1823, do not affect the point at issue. Cites the charter given by the Emperor Paul in 1799 to the Russian-American Company. It made no claim to exclusive jurisdiction over Behring Sea, nor were any measures taken under it to restrict foreign commerce, navigation, or fishing in that sea. Quotes sections 1 and 2 of the Russian ukase of September, 1821, reserving for Russian subjects exclusively all commerce, whaling, fishing, and other industries on the northwest coast, from Behring Strait to the fifty-first degree of north latitude, and prohibiting foreign vessels from approaching the coasts and islands belonging to Russia within less than 100 Italian miles. Protest of John Quincy Adams, February 25, 1822, against the said ukase, and his correspondence with the Russian minister at Washington on the subject. The attempt to exclude American vessels was at once resisted. No distinction made by the Russian Government between the Pacific Ocean and Behring Sea. It regarded	456

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page
	Lord Salisbury to Sir Julian Pauncefote—Continued.	1890. Aug. 2	the Pacific Ocean as extending to Behring Strait. No reference on either side to any distinctive name for Behring Sea. Mr. Adams's dispatch of July 22, 1823, to Mr. Middleton. Mr. Adams clearly meant to deny that the Russian settlements or discoveries gave Russia any claim, as of right, to exclude the navigation or fishery of other nations from any part of the seas on the coast of America, and that her rights, in this respect, were limited to the territorial waters of certain islands of which she was in permanent and complete occupation. Draft of treaty between the United States and Russia. Mr. Adams's dispatch of July 22, 1823, to Mr. Rusak, the American minister in London, stating that the United States can not renounce the right of carrying on trade with the natives throughout the northwest coast. Mr. Blaine says that, when Mr. Middleton declared that Russia had no right of exclusion between the fiftieth and sixtieth degrees of north latitude, he intended to make a distinction between Behring Sea and the Pacific Ocean, but the sixtieth degree strikes straight across Behring Sea, leaving by far the larger and more important part of it to the south. Mr. Blaine's construction of the treaty of 1824 between the United States and Russia is an entirely novel one. Dissents from his interpretation of article 7 of the treaty of 1825 between Great Britain and Russia. It referred to all the possessions of the two powers on the northwest coast of America. Separate article relating to the rights of the Russian-American Company. Its context precludes the interpretation that it was meant to recognize the objectionable claim contained in the ukase of 1821. Explanatory memorandum received from the Russian ambassador on the subject in December, 1842. The right of Russia to exclude foreign vessels from her coasts and islands, within a distance of 100 miles, was never admitted nor enforced. Cites Wheaton, Kent, Calvo, Mr. Seward, and Mr. Fish to show that the maritime jurisdiction of a country only extends to the distance of a marine league from the coast. Instructions given by Mr. George Canning to Mr. Stratford Canning, December 8, 1824, to require a stipulation, in the treaty then being negotiated with Russia, of the right of British subjects to navigate freely in the Pacific. Mr. Stratford Canning's dispatch of March 1, 1825, stating that the Emperor of Russia had no intention of maintaining any exclusive claim to the navigation of Behring Strait or of the seas to the north of it. These extracts prove that Great Britain refused to admit any part of the Russian claim asserted by the ukase of 1821, from Behring Strait to the fifty-first parallel; that the convention of 1825 was regarded on both sides as a renunciation on the part of Russia of that claim in its entirety; and that though Behring Strait was known and specifically provided for, Behring Sea was not known by that name, but was regarded as part of the Pacific Ocean. The British Government has always claimed the freedom of navigation and fishing in the waters of Behring Sea. It is impossible to admit that a public right can be held to be abandoned by a nation from the mere fact that, for a certain number of years, it has not suited the subjects of that nation to exercise it. The British Government is willing to concede to the United States the same jurisdiction in Behring Sea that she conceded to Russia, and to agree that the whole question be referred to arbitration, as to the legality of the recent captures in that sea. Incloses copies of correspondence relative to the ukase of 1821 and the treaty of 1825 between Great Britain and Russia.	

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Sir Julian Pauncefote to Mr. Blaine.	1880. Nov. 18	Zanzibar: Incloses a copy of an official notice proclaiming the British protectorate over the dominions of the Sultanate of Zanzibar.	476
	Mr. Blaine to Sir Julian Pauncefote.	Dec. 17	Seal fisheries in Behring Sea: Insists upon the correctness and validity of the position taken by the United States Government. Lord Salisbury contends that the phrase "Pacific Ocean," as used in the treaties of 1824 and 1825, was intended to include Behring Sea. The United States contends that Behring Sea was not mentioned, nor even referred to, in either treaty, and was in no sense included in the phrase "Pacific Ocean." Lord Salisbury assumes that the "northwest coast" has but one meaning, and that it includes the whole coast stretching northward to Behring Strait. The United States contends that the "northwest coast" means, by long prescription, the coast of the Pacific Ocean south of the Alaskan Peninsula, or south of the sixtieth degree of north latitude, between the forty-second and the sixtieth parallels. Refers to H. H. Bancroft's map of the northwest coast. Quotes the first article of the treaties of 1824 and 1825. Agrees with Lord Salisbury that throughout the whole correspondence relating to the treaties, there was no reference by either side to any distinctive name for Behring Sea, for the reason that the negotiations had no reference to Behring Sea, but were confined to a "strip of land" on the northwest coast and the waters of the Pacific Ocean adjacent thereto. Behring Sea appeared on many authentic maps several years before the two treaties, sometimes called Sea of Kamachatka. (Map of 1784; Gvozdef's map of 1782; Muller's map of 1761.) If Behring Sea had been included in the treaties, it is impossible to conceive that it would have been omitted in Mr. Adams's and Mr. G. Canning's instructions, and escaped the notice of the plenipotentiaries. Russia practically withdrew the operation of the ukase of 1821 from the waters of the northwest coast on the Pacific Ocean, but there is conclusive proof that it was left in full force over the waters of Behring Sea. Great profits made by the Russian-American Company. Quotes Bancroft's History of Alaska, showing that that company enjoyed a monopoly of the sealing and fishing in Behring Sea up to 1867, when Alaska was sold to the United States. The 100-mile limit was steadily observed by all the nations that sent vessels to Behring Sea. Not a seal taken in Behring Sea by any foreign vessel prior to 1867. No protest made by Great Britain against the Russian monopoly. Second articles of the two treaties. Treaty of 1818 between the United States and Great Britain, showing the meaning and acceptance of the phrase "northwest coast," in accordance with the American contention. Mr. Adams's instruction of July 23, 1823, to Mr. Middleton. Memorandum submitted by Mr. Middleton to Count Neesselrode, asserting that Russia had not the right of dominion "upon the continent of America between the fiftieth and sixtieth degrees of north latitude." The fact that the sixtieth parallel "strikes straight across the Behring Sea" has no pertinence to this discussion. There is a continuous coast line between the fiftieth and sixtieth degrees on the Pacific Ocean, but not on Behring Sea. Mr. Middleton referred only to the coast south of Behring Sea. At the time the treaties were negotiated the only trading vessels which had entered Behring Sea were those of the Russian Fur Company. Third article of the British treaty of 1825. The only coast referred to in this article was the strip of land south of 60 degrees. Discusses the fourth, fifth, sixth, and seventh articles of the same treaty. Greater caution of Russia in the treaty of 1825 than in that of 1824. Reasons	477

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Blaine to Sir Julian Pauncefote—Continued.	1890. Dec. 17	therefor. Explanatory note from Russia excepting the Russian possessions down to 56° 30' from the provisions of the treaty of 1824 and drawing the distinction between the Sea of Kamchatka and the Pacific Ocean. This explanatory note disproves and denies in detail Lord Salisbury's three assertions at the close of his dispatch of August 2, 1890. Discusses the inclosures to that dispatch and gives extracts showing that they confirm the view taken by the United States and refer to the Pacific Ocean and northwest coast south of the sixtieth degree. Lord Salisbury asserts that maritime jurisdiction extends only a marine league from the coast. In 1816 the British Parliament passed a law prohibiting all vessels from hovering within 8 leagues of the coast of St. Helena under penalty of confiscation. Cites the pearl fisheries of Australia, where Great Britain exerts control over a part of the ocean 600 miles wide. The President will ask the British Government to agree to the distance of 20 marine leagues, within which no vessel shall hover around the islands of St. Paul and St. George, from May 15 to October 15 of each year. States facts showing the injury already done to the seal fisheries. British offer of arbitration not satisfactory. States the questions which the President wishes to refer to arbitration. The United States has never claimed that Behring Sea was <i>mare clausum</i> , and disavows it. Mr. Phelps's dispatch of September 12, 1888. Incloses copies of documents.	

GREECE.

23	Mr. Snowden to Mr. Blaine.	1890. Jan. 24	Joint stock companies: The prime minister says that the agreement authorizing joint stock companies incorporated in the United States and Greece to enjoy all the rights and privileges granted to the citizens and subjects of each country has been duly considered and will be executed by the Hellenic Government within a few days.	509
28	Same to same.....	Feb. 14	Same subject: Incloses a protocol of conference held on the 10th instant with the minister of foreign affairs, at which it was agreed that joint stock companies in Greece and the United States may exercise in the territory of the other the rights and privileges of subjects and citizens of the two countries, under article I of the treaty of 1837.	509
30	Mr. Blaine to Mr. Snowden.	Mar. 21	Same subject: Has approved the protocol accompanying his No. 28, of the 4th ultimo, and had it printed.	511
40	Mr. Wharton to Mr. Snowden.	Sept. 18	Military service of Emmanuel C. Catechi, an American citizen: States the circumstances connected with Catechi's conscription by the Greek authorities; instructs Mr. Snowden to ask his immediate release, and that steps be taken to prevent his being further molested. Incloses copies of correspondence.	511
41	Same to same.....	Sept. 19	Same subject: Instructs him to investigate the circumstances of Catechi's residence in Greece, whether indicating permanent stay or an intention to return to the United States.	513
60	Mr. Snowden to Mr. Blaine.	Oct. 18	Same subject: Incloses a copy of his note of the 18th ultimo to the minister of foreign affairs, requesting Catechi's release. Has not yet received a reply.	514
67	Same to same.....	Nov. 17	Same subject: Gives details with regard to Catechi's residence in Greece. Catechi says that he intends to return to the United States within a reasonable time.	515

GREECE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
66	Mr. Snowden to Mr. Blaine	1890. Nov. 26	Same subject: Incloses a copy of a note of the 19th ultimo from the minister of foreign affairs, declining to release Catechi on the ground that the latter could not change his nationality before attaining his majority and obtaining the permission of the Greek Government. Incloses also a copy of his note of November 26 to the minister of foreign affairs, restating the facts and arguments in the case.	516
71	Same to same.....	Dec. 17	Same subject: Catechi will probably be released.	519
73	Same to same.....	Dec. 25	Same subject: Orders have been issued for Catechi's release.	520

HAITI.

81	Mr. Douglass to Mr. Blaine.	1890. Jan. 17	Election of members of the Legislative Assembly now in progress.	521
45	Same to same.....	Mar. 13	Right of asylum: Incloses a copy of a note from the minister of foreign affairs, requesting a list of the persons who have taken refuge at the legation, and of his reply of the 7th instant stating that there were none.	521
88	Mr. Blaine to Mr. Douglass.	Mar. 27	Same subject: Mr. Douglass would not be authorized to furnish the Haitian Government with a list of fugitives under his protection, had there been any. Gives reasons.	523
59	Mr. Douglass to Mr. Blaine.	Apr. 25	Political situation described: President Hyppolite's popularity increasing.	523
48	Mr. Blaine to Mr. Douglass.	May 8	Same subject: Is glad to hear that the outlook is favorable.	524
69	Mr. Douglass to Mr. Blaine.	May 28	Political: Opening of the Legislature on the 26th instant described.	524
70	Same to same.....	May 28	Good offices exerted by Mr. Douglass in favor of Sultzzer Wart, a Swiss banker, who has been expelled from Haiti. He failed to procure a revocation of his expulsion, but obtained an extension of the time for a few days.	525
71	Same to same.....	May 30	Expulsion of J. R. Love and Sultzzer Wart from Haiti: Incloses a copy and translation of a decree of the 28th instant ordering the same.	526
72	Same to same.....	May 30	Martial law: Incloses a copy and translation of a decree of the 28th instant abolishing martial law at Port-au-Prince.	527
52	Mr. Blaine to Mr. Douglass.	June 12	Good offices in behalf of Sultzzer Wart: Approves Mr. Douglass's action in the case.	527
77	Mr. Douglass to Mr. Blaine.	June 13	Closed ports: Incloses a copy of a note of the 7th instant from the minister of foreign affairs, complaining of the entrance of two American schooners, <i>Baltic</i> and <i>Rising Sun</i> , into the closed port of Grand-Gosier about the end of March, and asking that steps be taken to prevent a recurrence of such violation of the law, and a copy of his reply of the 10th instant promising to take such steps.	528
80	Same to same.....	June 27	Political situation: Public confidence increasing; the national currency appreciating; improvements in Port-au-Prince; a large coffee crop expected.	529
60	Mr. Blaine to Mr. Douglass.	July 2	Closed ports: Approves the general tenor of his reply of June 10 to the minister of foreign affairs.	530
85	Mr. Douglass to Mr. Blaine.	July 9	Political: Incloses a translation of that part of President Hyppolite's message of the 9th ultimo which treats of the relations of Haiti with foreign powers; comments on the message.	530

ITALY.

No.	From and to whom.	Date.	Subject.	Page.
55	Mr. Blaine to Mr. Porter...	1890. May 3	Claim of Nicolino Mileo, a naturalized citizen of the United States, against Italy: Incloses documents showing that Mileo was born in Italy in 1860; that he was brought to the United States in 1870 by his father, who was an Italian subject; that he has resided in New York ever since; that he has been engaged in business there for the last 15 years; that he was married in New York; that his wife, Gaetana, was and is a citizen of the United States; that he was duly naturalized in 1884; that his father resided in the United States from 1870 until 1882, during which time he declared his intention to become a citizen of the United States; that his father returned to Italy to reside in 1882; that some time prior to April 1, 1889, one Albino Calaea, a cousin of Mileo's, and an Italian subject, died, leaving Mileo, by his will, certain real estate in the town of Spinoao, Italy, valued at \$800 to \$1,000; that Mileo and his wife sailed for Italy April 1, 1889, to take possession of said property; that they arrived at Spinoao April 17; that on the 22d of April, in spite of his protests and the papers proving his American citizenship, he was pressed into the Italian army; that on the 23d of April he was taken to Alessandria, where he was confined for 30 days in jail, under circumstances of great hardship, for having failed to return to Italy to perform military service; that he was thereafter compelled to serve 54 months in the Italian army; that at the end of that time, having obtained leave of absence, he went to Genoa and left Italy on a vessel bound for Zanzibar, whence he returned to the United States via Marseilles. He alleges that the Italian authorities will not permit his wife to come to him and threaten to detain her in Italy until he returns there. Instructs Mr. Porter to ask for a prompt and thorough investigation of the case and to state the expectation of the United States Government that, should Mileo's allegations be substantiated, the action of the Italian authorities will be disavowed. Discusses the points involved. The action of the Italian authorities calls now, as on previous occasions, for earnest dissent and protest. Regrets that Italy stands aloof from the repeated proposals of the United States to adjust the question of military service by a treaty on well-established bases. If it is true that Mrs. Mileo is coerced into remaining in Italy, Mr. Porter must make instant and earnest protest.	536
83	Mr. Porter to Mr. Blaine....	June 11	Same subject: Will present the case to foreign office next, when he will urge the adoption of amendments to our treaties in relation to the subjects of naturalization and extradition of offenders.	547
101	Same to same.....	July 9	Same subject: Has written to the minister of foreign affairs, stating the case and requesting an investigation. Has also had an interview with him. He asserted that the story of the detention of Mileo's wife would prove to have no foundation in truth.	548
72	Mr. Wharton to Mr. Porter.	July 29	Claim of Nicolino Mileo: No. 101 received. Awaits a further report.	548
114	Mr. Dougherty to Mr. Blaine.	Sept. 1	Same subject: Incloses a copy of Mr. Porter's note of June 23, 1890, to the minister of foreign affairs, setting forth the circumstances, and a copy and translation of the reply of the 22d ultimo, denying that Mrs. Mileo had been detained in Italy, and stating that she had sailed for New York on the 31st of May, with a passport issued to her on the 6th of May; that, in 1884, when Mileo acquired American citizenship, he was already guilty of contumacy; that he presented himself voluntarily to the enlistment bureau May 22, 1889, and was enrolled; that he joined his regiment May 27 and remained with it until November 15, when, having obtained a 15 days' leave, he went to Naples, whence he	548

ITALY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
114	Mr. Dougherty to Mr. Blaine—Continued.	1890. Sept. 1	fled to the United States, arriving in New York about December 12, 1889; that, prior to his desertion, the only punishment to which he was sentenced was 1 month's imprisonment for contumacy, which he would not have had to undergo until the time of his discharge; that this shows how unfounded are his assertions as to his ill treatment, his incarceration, and his escape from the prisons of Alessandria; that it was Mileo's duty to present himself for enrollment on reaching the age of conscription; and that, by article 12 of the Italian code, he was subject to military duty in spite of the acquisition of a new nationality, which, moreover, he had acquired when he was already guilty of contumacy; that he was inscribed on the conscription list of the Kingdom, and, in fact, enrolled.	
70	Mr. Wharton to Mr. Dougherty.	Sept. 19	Claim of Nicolino Mileo: No. 114 received. Signor Damiani admits that Mileo was imprisoned 1 month prior to his desertion and to his 5½ months' service. The United States Government can not but regard such punishment as harsh and inequitable under the circumstances. Signor Damiani denies the detention of Mileo's wife; but the lateness of the date of her passport is not wholly inconsistent with the statement that her repeated endeavors—begun before the birth of her child—to obtain permission to depart had met with refusal.	552
134	Mr. Porter to Mr. Blaine ..	Nov. 7	Claim of Nicolino Mileo: No. 79 received. Interview of the 6th instant with Signor Damiani. The latter did not say, in his note of August 23, that Mileo had been imprisoned for a month, but that he had been sentenced to suffer a month's imprisonment, which was, however, not to be inflicted until the period of his becoming entitled to "unlimited leave," and that, Mileo having escaped before that time, no punishment had been undergone. The Italian Government denies that any obstacles were at any time interposed to Mrs. Mileo's departure for the United States.	553
90	Mr. Blaine to Mr. Porter....	Nov. 26	Claim of Nicolino Mileo: Cancels that part of Department's No. 79, of September 19, relating to the month's imprisonment.	553

CORRESPONDENCE WITH THE LEGATION OF ITALY AT WASHINGTON.

Baron Fava to Mr. Blaine...	1890. Mar. 19	Extradition of Vincenzo Villella and Giuseppe Bevivino: Incloses for transmission two letters rogatory relating to the trial of Villella and Bevivino in Italy.	554
Mr. Blaine to Baron Fava..	Mar. 21	Same subject: Has forwarded the letters rogatory. Reserves the right, which the United States Government thinks that it possesses, to have the fugitives surrendered for trial in the place where their offenses were committed. Has forwarded the letters rogatory in order that the ends of justice may not, if possible, be entirely defeated. The United States demanded the surrender of the two fugitives more than a year ago. Italy declined to surrender them, on the ground that they were Italian subjects. The treaties require the surrender of persons generally, and make no exception in favor of citizens or subjects.	564
Baron Fava to Mr. Blaine...	Apr. 20	Same subject: Note of 21st ultimo received. It is for the very purpose of preventing the ends of justice being defeated that Bevivino and Villella are now imprisoned in Italy and that the letters rogatory have been sent. Requests the speedy transmission of the documents asked for in the said letters rogatory. The question of the extradition of Italian subjects by Italy has been fully discussed and entirely settled.	555

CORRESPONDENCE WITH THE LEGATION OF ITALY AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Baron Fava to Mr. Blaine— Continued.	1890. Apr. 20	between the Italian ministry of foreign affairs and the United States legation at Rome. According to Italian law no citizen can be removed from the jurisdiction of his natural judges, those of his own country. The extradition of a citizen is not admissible under the Italian penal code. This principle has not only become a part of the public law of Europe, but has been recognized by the United States in its extradition treaties with Austria-Hungary, Baden, Bavaria, Belgium, Hayti, Mexico, the Netherlands, Turkey, Prussia, Germany, Spain, Sweden and Norway, and Salvador. It can not be claimed, on the ground of the absence in the treaty between Italy and the United States of an express reservation in favor of natives of the two countries, that Italy has renounced a doctrine which is based upon her own laws and her own public law. The Italian Government is therefore justified in declaring that neither the spirit of the Italian law nor the text of the treaty would permit it to comply with the request for the extradition of Bevivino and Villella. There is no ground for the inference from the foregoing that the guilty parties would escape punishment. They have been arrested, are now in prison, and their trial would now have been ended if the Pennsylvania courts had forwarded the papers asked for early in 1889.	
	Same to same	June 5	Extradition of Vincenzo Villella and Giuseppe Bevivino: Requests the speedy transmission of the papers asked for in the letters rogatory accompanying his note of March 19, 1890.	557
	Mr. Blaine to Baron Fava...	June 13	Extradition of Vincenzo Villella and Giuseppe Bevivino: Returns the letters rogatory which had been forwarded to the governor of New York and sent back by him with directions as to their execution. Advises that they be sent to the Italian consul at New York.	558
	Baron Fava to Mr. Blaine...	June 16	Same subject: Has instructed the Italian consul-general at New York to take the necessary steps.	558
	Mr. Blaine to Baron Fava...	June 23	Same subject: Reply to note of April 20. The question at issue is not one of Italian law, but of an international compact between the United States and Italy. Is surprised that the Italian Government regards the question as settled by the ministry of foreign affairs and the United States legation. Mr. Stallo protested against the position taken by the Italian Government. Gives a history of the case of Salvatore Paladini. Reviews the negotiations in the case of Villella and Bevivino. Adduces arguments and cites authorities to show that the refusal of the Italian Government to surrender Paladini, Villella, and Bevivino, under the treaty of 1868, is not justified by the principles of international law. The present situation seems to require either the denunciation of the treaty of 1868, or the conclusion of new stipulations with regard to the extradition of citizens.	559
	Baron Fava to Mr. Blaine...	July 3	Same subject: Has communicated note of June 23 to his Government. Says there must have been some mistake respecting the statement of the Italian consul at Philadelphia that the Italian Government would grant the extradition of Villella and Bevivino.	567
	Mr. Wharton to Baron Fava.	July 29	Same subject: Has again urged the governor of Pennsylvania to expedite the transmission of the documents needed.	567
	Same to same.....	Aug. 1	Same subject: The local authorities at Wilkes Barre have been directed by the governor of Pennsylvania to forward the papers.	568
	Baron Fava to Mr. Blaine...	Aug. 8	Extradition and naturalization: Incloses a copy of a dispatch of the 27th ultimo, from the Italian foreign office, stating that in January, 1889, the American minister at Rome, Mr. Stallo, had commenced negotiations with a view to the adoption of an additional article to the extradition convention of 1868 between Italy and	568

CORRESPONDENCE WITH THE LEGATION OF ITALY AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject	Page.
	Baron Fava to Mr. Blaine—Continued.	1890. Aug. 8	the United States, the object of said article being the prohibition of the surrender by each state of its own subjects or citizens; and the signing of a convention of naturalization by the two countries, such as would be rendered necessary by the new article, and similar to that existing between the United States and Belgium; that the Italian Government received this proposition favorably and on the 27th of April, 1889, addressed a note to Mr. Stallo, accepting his proposition in general, but proposing a few modifications in his draft, and an addition to the article relative to extradition. Incloses a copy of said note of April 27, 1889, and requests a reply to the counter propositions made therein.	
	Mr. Wharton to Baron Fava.	Aug. 12	Extradition of Vincenzo Villella and Giuseppe Bevivino: The district attorney of Luzerne County, Pennsylvania, is now trying to find two witnesses whose testimony is indispensable.	571
	Baron Fava to Mr. Blaine...	Oct. 7	Same subject: Again asks the good offices of the Department to procure the necessary documents from Pennsylvania.	571
	Mr. Blaine to Baron Fava...	Oct. 20	Same subject: The governor of Pennsylvania has again called upon the authorities of Luzerne County to expedite the execution of the letters rogatory.	572
	Mr. Ades to Baron Fava....	Oct. 28	Same subject: Two of the most important witnesses not yet found.	572
	Mr. Blaine to Baron Fava...	Nov. 13	Same subject: The district attorney of Luzerne County hopes to have the testimony of witnesses ready for transmission in a few days.	572
	Same to same.....	Nov. 18	Extradition and naturalization: Reply to note of August 8. Can not regard the note of April 27, 1889, as satisfactory. The purport of the proposed article seems to be that, while citizenship is recognized as a ground for refusing extradition, citizenship by naturalization can not confer the right to demand it; the only effect conceded to naturalization is that, when joined with a subsequent residence of 5 years, it may afford a ground to withhold extradition. The United States Government can not assent to the stipulation that it shall agree to the enforcement against its citizens, if they set foot in Italy, of those provisions of the Italian code which relate to the punishment of foreigners for acts committed outside of Italy. The language of the note is not entirely explicit as to military service, but it is not understood to mean that a person who, having been naturalized as a citizen of the United States, owes allegiance and duty to that country, is at the same time to continue to owe the allegiance and duty of a subject to the King of Italy. Incloses a copy of the second article of the naturalization treaty of September 20, 1870, between the United States and Austria-Hungary.	572

JAPAN.

80	Mr. Swift to Mr. Blaine	1890. Jan. 3	Medals and brevets presented by the Japanese Government to certain American citizens: Incloses a copy of a note of the 18th ultimo, from the foreign office, transmitting medals and brevets conferred by the Emperor on certain members and ex-members of the legation. Has forwarded those intended for Mr. Hubbard and Mr. Mansfield. Asks for instructions concerning those intended for Mr. Dun and Dr. Whitney.	575
88	Same to same.....	Feb. 5	Taxes levied upon the sale of "Scott's Emulsion." The China and Japan Trading Company, in 1887, made arrangements for placing upon the Japanese market an American prepar-	577

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page
88	Mr. Swift to Mr. Blaine— Continued.	1890. Feb. 5	ation of cod-liver oil, known as "Scott's Emulsion," and expended several thousand dollars in advertising it. In 1889 they arranged with Japanese retail merchants for its sale, and began selling. The sales were very satisfactory. Soon afterwards the Japanese authorities notified the native merchants that they must each take out a special license for the sale of "Scott's Emulsion." The American importers, to avoid delay and trouble, instructed the native merchants to take out the license, and applied to Mr. Swift to obtain a revocation of the order. He accordingly wrote to the foreign office September 13, 1889, relating the facts and stating that, in his opinion, the requirement of the license was a violation of the treaty of July 29, 1858. Subsequently the agent of the China and Japan Trading Company informed Mr. Swift that the Japanese merchants engaged in selling "Scott's Emulsion" had been required to pay an excise tax of 10 per cent. ad valorem upon the retail price of each bottle; that they had thereupon returned the stock on hand to the importers and ceased to sell the article. On the 4th of October, 1889, Mr. Swift wrote to the foreign office asking for a reply to his note of September 13 and calling attention to the excise tax of 10 per cent. demanded on the price of each bottle of "Scott's Emulsion." The foreign office replied January 17, 1890, contending that, under the treaty of 1858, the Japanese Government had the right to require the license and to levy the excise tax. Incloses a memorandum of his conversation of January 23, 1890, with the minister of foreign affairs and copies of correspondence.	
91	Same to same.....	Feb. 16	Taxes levied upon "Scott's Emulsion:" Incloses a copy of a note of the 6th instant, from the minister of foreign affairs, transmitting a memorandum of his conversation of January 23 with Mr. Swift; and a copy of Mr. Swift's reply of the 10th instant, transmitting a memorandum pointing out certain errors in Viscount Aoki's memorandum.	586
106	Same to same.....	Mar. 16	Rope made of human hair: Sends, for transmission to the Smithsonian Institution, a section of a rope made of human hair, used in the construction of a Buddhist temple at Kioto, and a photograph of the rolls of cable still remaining at the temple. Incloses a copy of a letter on the subject from V. Marshall Law, dated 6th instant.	592
59	Mr. Blaine to Mr. Swift	Mar. 18	Taxes levied upon "Scott's Emulsion:" Discusses the questions involved; approves his protest; is compelled to regard the action of the Japanese Government as a clear and substantial violation of the provisions of the treaty of 1858. Reply to No. 88.	594
61	Same to same.....	Mar. 20	Medals and brokets presented by the Japanese Government to certain American citizens: Section 9, article 1, of the Constitution provides that no person holding any office of profit or trust under the Government shall, without the consent of Congress, accept any present, emolument, office, or title from any king, prince, or foreign state; section 3 of the act of January 31, 1881, provides that any such present, decoration, or other thing shall be tendered through the Department of State. Reply to No. 80.	598
63	Same to same.....	Mar. 21	Taxes levied upon "Scott's Emulsion:" No. 91 received. The differences between Mr. Swift's and Viscount Aoki's memoranda of their interview of January 23, do not involve the merits of the question at issue.	599
111	Mr. Swift to Mr. Blaine	Apr. 8	Military and naval maneuvers from the 30th ultimo to the 4th instant described.	599
66	Mr. Blaine to Mr. Swift.....	Apr. 17	Rope made of human hair: Received and sent to the Smithsonian Institution. Instructs him to convey the thanks of the Government to the Buddhist priests and to Mr. V. M. Law. Reply to No. 106.	602

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
120	Mr. Swift to Mr. Blaine ...	1890. May 20	Taxes levied upon "Scott's Emulsion;" Has sent to the foreign office a copy of Mr. Blaine's No. 59 of March 18.	602
81	Mr. Blaine to Mr. Swift	June 12	Same subject: No. 120 received. No occasion to renew representations, unless the Japanese Government continues to tax the article and without submitting a reply to the views of the Department.	603
129	Mr. Swift to Mr. Blaine ...	July 7	Same subject: Incloses a copy of a note of the 5th instant from the minister of foreign affairs, stating that he had instructed the Japanese chargé at Washington to communicate the further views of the Japanese Government to Mr. Blaine.	603
146	Same to same	Aug. 15	Political: Describes the elections for members of the Diet on the 1st ultimo. Incloses a clipping headed "Political parties in the Diet," and a copy of the law of July 25, 1890, relative to meetings and political associations.	604

CORRESPONDENCE WITH THE LEGATION OF JAPAN AT WASHINGTON.

Mr. Sato to Mr. Blaine.....	1890. Mar. 7	Taxes levied in Japan upon "Scott's Emulsion;" States the facts in the case and gives a history of the correspondence between the United States minister at Tokio and the minister of foreign affairs on the subject. Argues to show that the said taxes are not an infringement of the treaty of 1858. The Japanese Government will, however, abolish the taxes if it can be conclusively shown that it is mistaken in its opinion.	611
Mr. Blaine to Mr. Sato	Mar. 18	Same subject: The arguments contained in his note of the 7th instant do not remove the Department's impression that the levying of the taxes in question is a direct violation of the treaties. The United States minister at Tokio has been instructed to make a full communication of the views of the United States Government to the minister of foreign affairs.	615
Mr. Sato to Mr. Blaine.....	July 28	Same subject: Incloses a copy of an instruction of the 6th instant from the minister of foreign affairs, stating facts and adducing arguments to show that neither the requirement of the license nor the levying of the excise tax is an infringement of the treaty of 1858.	615

MEXICO.

179	Mr. Ryan to Mr. Blaine.....	1889. Dec. 5	Arrest of Captain Stilphen of the American schooner <i>Robert Ruff</i> : Incloses copies of correspondence on the subject.	620
184	Same to same.....	Dec. 7	Same subject: Stilphen is out on bail. Incloses a copy of his note of this date to the minister of foreign affairs, stating that an American citizen named Patton, charged with assault and battery at Coatzacoalcas, boarded the <i>Robert Ruff</i> at sea, outside of the jurisdiction of Mexico; that a boat, containing certain persons in citizens' clothes, approached the schooner, and that one of the persons, speaking in Spanish and exhibiting a paper, apparently solicited the surrender of Patton; that Captain Stilphen paid no attention to the request and kept the schooner on her course; and that on his return to Coatzacoalcas he was arrested on the charge of aiding a criminal to escape; that the United States Government is of the opinion that, upon the facts stated, there is no ground for Captain Stilphen's detention, and that he should be set at liberty without delay.	622

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MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
186	Mr. Ryan to Mr. Blaine	1889. Dec. 11	Arrest of Captain Stilphen: Incloses a copy and translation of a note of the 10th instant from the minister of foreign affairs, stating that he had asked for additional information in the case.	623
211	Same to same	1890. Jan. 21	Imprisonment of R. C. Work at Ciudad Victoria for the murder of Francisco Cruz. Incloses copies of correspondence in the case.	623
215	Same to same	Jan. 22	Same subject: Incloses a copy of a letter of the 14th instant from the United States consular agent at Ciudad Victoria, stating that the judge has informed him that Work's case was closed, and that he would be sentenced in a few days.	626
238	Same to same	Feb. 7	Same subject: Incloses copies of correspondence on the subject.	627
241	Same to same	Feb. 10	Arrest of Capt. J. H. Stilphen: Incloses copies of correspondence in the case.	628
292	Mr. Blaine to Mr. Ryan	Feb. 18	Imprisonment of R. C. Work: A disinterested medical statement of Mr. Work's physical condition is desirable.	630
293	Same to same	Feb. 20	Arrest of Capt. J. H. Stilphen: No. 241 received. Approves his note of the 10th instant to the minister of foreign affairs.	630
255	Mr. Ryan to Mr. Blaine	Mar. 5	Arrest of Capt. J. H. Stilphen: The Mexican Government insists that Captain Stilphen's vessel was only 2½ miles from the coast when he aided the escape of Joseph Patton. Incloses copies of correspondence.	630
261	Same to same	Mar. 15	Claim of Shadrack White: Mexican Government has agreed to the appointment of two competent surgeons to report upon the extent and character of the injuries sustained by White. Mr. Ryan has designated Dr. Paul Clendenin, assistant surgeon, U. S. Army.	632
224	Mr. Blaine to Mr. Ryan	Mar. 24	Same subject: The Department awaits the development of the disputed questions of fact. Reply to No. 255.	632
235	Same to same	Apr. 23	Claim of Howard C. Walker against Mexico for insults and injuries undergone by him at the hands of Mexican authorities: Incloses a letter of the 18th instant from M. F. Morris, urging the settlement of the said claim.	633
290	Mr. Ryan to Mr. Blaine	May 2	Imprisonment of R. C. Work: Wrote to the minister of foreign affairs on the 30th ultimo, requesting that Work may be removed from the jail to some place where proper medical treatment may be secured for him. Incloses copies of correspondence.	633
297	Same to same	May 20	Claim of Shadrack White against Mexico for injuries inflicted upon him by Mexican soldiers at Eagle Pass, Tex., in March, 1888: Describes negotiations ending in the payment by the Mexican Government of \$7,000 in gold in full settlement of the said claim. Incloses draft for \$7,000 and copies of documents and correspondence in the case.	635
298	Same to same	May 21	Claim of Howard C. Walker: Incloses a copy of his note of the 15th instant to the foreign office, recalling attention to the said claim.	641
300	Same to same	May 21	Imprisonment of R. C. Work: Work was sentenced on the 12th instant to labor on the public works for 4 years 5 months and 10 days; the sentence to commence from January, 1889. Incloses copies of correspondence.	641
256	Mr. Blaine to Mr. Ryan	May 29	Claim of Shadrack White: Appreciates highly Mr. Ryan's effective efforts in the case. Reply to No. 297.	642
330	Mr. Ryan to Mr. Blaine	June 25	Claim of Howard C. Walker: Incloses a copy and translation of a note of the 12th instant from the foreign office, stating that, pursuant to a report made April 18, 1887, the Mexican Government was not responsible for damages in the premises.	643
333	Same to same	June 27	Real estate in Mexico: The Mexican Government has determined to issue no permits hereafter to foreigners to buy real estate near the frontier until there shall have been a final adjustment of the boundary between the United States and Mexico.	644

No.	From and to whom.	Date.	Subject.	Page.
		1890.		
	Mr. Ryan to Mr. Blaine (telegram).	July 24	War between Guatemala and Salvador: He has been informed unofficially by the foreign office that Mexico will maintain a rigid neutrality, but will use her good offices to establish peace.	644
350	Same to same	July 24	Telegrams between the Department and the United States minister in Central America: Reports the transmission of the said telegrams.	614
	Mr. Wharton to Mr. Ryan (telegram).	July 26	War between Guatemala and Salvador: Instructs him to report all that he can learn on the subject, and the reason why Department's instructions to the United States minister in Central America fail to reach Mr. Mizner.	645
	Mr. Ades to Mr. Ryan (telegram).	July 27	Interception of telegrams: Instructs him to cooperate with the United States minister in Central America in investigating the causes of the stoppage of communication between Washington and Central America.	645
	Mr. Ryan to Mr. Blaine (telegram).	July 27	War between Guatemala and Salvador: Reports recent events.	645
	Same to same (telegram) ...	July 27	Interception of telegrams: Salvador seems to be responsible for the interruption of correspondence between the Department and the United States minister in Central America; has demanded of the special agent of Salvador in Mexico that the rights of the United States be respected.	646
	Same to same (telegram) ...	July 28	Seizure of arms on the American steamer <i>Colima</i> by the Guatemalan authorities: Gives an extract from a telegram of the 25th instant shown him by the Guatemalan minister justifying the seizure.	646
	Same to same (telegram)....	July 29	War between Guatemala and Salvador: The special agent of Salvador informs him that the Salvador troops have been victorious in every battle and now hold a position in Guatemala, but that Salvador desires the friendly offices of the United States for the restoration of peace.	647
	Same to same (telegram)....	July 29	Interception of telegrams: The President of Salvador has wired his special agent in Mexico: "I have ordered telegrams of Mexican and American Governments to be passed, but lines in Guatemala are broken."	647
	Mr. Wharton to Mr. Ryan (telegram).	July 29	War between Guatemala and Salvador: Mr. Mizner was wired on the 26th instant to tender good offices, but no reply has been received from him. Action upon Mexican proposition must be delayed until Mizner can be reached.	647
	Mr. Ryan to Mr. Blaine (telegram).	July 29	Interception of telegrams: Gives directions for sending telegrams to Mr. Mizner.	647
	Same to same (telegram)....	July 30	Interception of telegrams: The Guatemalan minister assures him that the Guatemalan Government in no way interferes with either official or other correspondence.	648
353	Same to same	July 30	War between Guatemala and Salvador: Incloses a copy of a memorandum of the 26th instant from the foreign office, stating that Mexico would maintain a strict neutrality, but is ready to unite with the United States in mediating between the belligerents.	648
355	Same to same	July 30	Same subject: Incloses copies of telegrams.....	649
357	Same to same	July 30	Seizure of arms on the <i>Colima</i> : Incloses a copy of a telegram of the 25th instant from the Guatemalan minister of foreign affairs to the Guatemalan minister in Mexico justifying the seizure.	650
360	Same to same	July 30	War between Guatemala and Salvador: The special agent of the Government of Salvador requested, on the 29th instant, that the United States would use its good offices for the restoration of peace.	651
361	Same to same	July 31	Same subject: Has notified the foreign office that action upon the Mexican proposition with regard to mediation must be postponed until communication can be had with the United States minister in Central America.	651
	Mr. Wharton to Mr. Ryan (telegram).	Aug. 11	Same subject: Instructs him to inform the Mexican Government that Mr. Mizner has been directed to use his good offices with Guatemala and Salvador; that the United States would be pleased to cooperate with the Mexican Government, but that it prefers independent action to joint action.	651

LIST OF PAPERS.

LXXIII

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Wharton to Mr. Ryan (telegram).	1890. Aug. 15	Same subject: Instructs him to wire Mr. Mizner to confer with the Mexican minister at Guatemala, in order that there may be concert in the good offices of each for the restoration of peace.	652
387	Mr. Ryan to Mr. Blaine.....	Aug. 19	Same subject: Incloses copies of correspondence relative to the good offices of the United States and Mexico.	653
	Same to same (telegram)....	Aug. 22	Same subject: The special agent of Salvador is instructed to convey to Mr. Blaine, through Mr. Ryan, the desire of Salvador to have the United States propose to Guatemala that the difficulty be submitted to arbitration.	653
	Same to same (telegram)....	Aug. 22	Same subject: The special agent of Salvador states that General Ezeta rejects the conditions of peace proposed by Mr. Mizner, as they require his resignation in favor of Dr. Ayala, whom he considers a traitor to his country. Ezeta will consent to any proposition of peace involving a fair election by the people of Salvador.	653
	Mr. Wharton to Mr. Ryan (telegram).	Aug. 25	Same subject: Instructs him to wire Mr. Mizner to propose arbitration to the Guatemalan Government.	654
	Mr. Ryan to Mr. Blaine (telegram).	Aug. 26	Same subject: Has communicated to Mr. Mizner Department's instruction of the 25th instant.	654
396	Same to same.....	Aug. 30	Same subject: Incloses copies of correspondence on the subject.	654
375	Mr. Blaine to Mr. Ryan.....	Oct. 22	Chinese immigration from Mexico and Canada: Instructs him to sound the Mexican Government as to its willingness to enter into negotiations with a view to prevent Chinese laborers from entering the United States from Mexico.	655
471	Mr. Ryan to Mr. Blaine.....	Nov. 1	Same subject: Has spoken on the subject to the minister of foreign affairs, who promised to consider it, but called attention to article XI of the Mexican constitution, which provides that every man has a right to enter and leave Mexico freely.	656
399	Mr. Blaine to Mr. Ryan.....	Nov. 19	Same subject: No. 471 received. Article XI of the Mexican constitution does not appear to dispense with matriculation, nor to affect the sovereign attributes in dealing with questions of public security.	656
487	Mr. Ryan to Mr. Blaine.....	Nov. 26	Chinese immigration from Mexico into the United States: The minister of foreign affairs can not see any way of preventing Chinese laborers from leaving Mexico in any direction that they may wish which would not conflict with article XI of the Mexican constitution. He will, however, consider any plan that may be submitted to him.	657

PERSIA.

456	Mr. Pratt to Mr. Blaine.....	1890. May 24	Wounding of Mrs. J. N. Wright, the wife of an American missionary in Salmas, western Persia, by an Armenian. Incloses a copy of a telegram of the 23d instant from the British consul-general at Tabrees, saying that Mrs. Wright had been dangerously wounded and that the assassin, an Armenian, had escaped; and a copy of his own note of the 23d instant to the prime minister asking that steps be taken for the arrest of the assassin.	658
457	Same to same.....	May 26	Same subject: The assassin has been arrested and is now in prison at Salmas. Mrs. Wright is now believed to be out of danger. Incloses copies of correspondence.	660
458	Same to same.....	May 27	Same subject: The British consul-general at Tabrees will represent Mr. Pratt in the prosecution of the assassin.	661
459	Same to same.....	June 3	Same subject: Incloses copies of correspondence relating all the circumstances in the case.	661
460	Same to same.....	June 4	Same subject: Mrs. Wright died on the 1st instant. Relates steps taken for trying the murderer.	666
461	Same to same.....	June 12	Same subject: Incloses copies of correspondence with the British consul-general at Tabrees on the subject.	666

PERSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1890.		
462	Mr. Pratt to Mr. Blaine.....	June 14	Same subject: Incloses a copy of his note of this date to the British consul-general at Tabreez, relative to the trial of the murderer.	668
463	Same to same.....	June 18	Same subject: Incloses copies of further correspondence with the British consul-general at Tabreez.	669
464	Same to same.....	June 25	Same subject: Incloses copies of further correspondence.	670
469	Same to same.....	June 30	Same subject: Incloses copies of further correspondence.	672
472	Same to same.....	July 5	Same subject: Incloses copies of further correspondence.	673
474	Same to same.....	July 15	Same subject: Incloses a copy of a note of the 5th instant from the British consul-general at Tabreez, covering a copy of the proceedings in the trial of Minas, Mrs. Wright's murderer.	675
226	Mr. Adee to Mr. Pratt.....	July 15	Same subject: Nos. 459 and 460 received. The services rendered by the British minister at Teheran and the British consul-general at Tabreez, will form the subject of an instruction to the American minister at London.	683
227	Mr. Moore to Mr. Pratt.....	July 23	Same subject: Nos. 461 and 462 received. Approves his action.	684
479	Mr. Pratt to Mr. Blaine.....	July 26	Same subject: The Shah has been led to believe that the evidence against Minas is not sufficient to warrant his execution, and has ordered that he be imprisoned for life instead. Has remonstrated to the prime minister.	684
482	Same to same.....	Aug. 8	Same subject: Incloses copies of further correspondence.	685
483	Same to same.....	Aug. 9	Same subject: Incloses copies of further correspondence.	688
229	Mr. Wharton to Mr. Pratt....	Aug. 25	Same subject: No. 474 received. Department appreciates the service rendered by the British consul-general at Tabreez.	690
487	Mr. Pratt to Mr. Blaine.....	Aug. 26	Same subject: Orders have been given for the transfer of Minas from Tabreez to Teheran for safe-keeping.	690
490	Same to same.....	Sept. 18	Same subject: Minas has been placed in prison at Teheran.	691
233	Mr. Wharton to Mr. Pratt....	Sept. 19	Same subject: Nos. 479 and 482 received. The Department considers the evidence against Minas of the most indubitable character, and believes that the result of a mere sentence of imprisonment in the case would be additional crimes against Americans and Europeans in that district, but is confident that, on a full consideration of the case, the Persian Government will deal wisely and courageously with the criminal. Incloses a copy of a letter of the 16th instant from the Presbyterian Board of Foreign Missions, asking that the ends of justice be not defeated, as the lives of the remaining missionaries would be jeopardized thereby.	691

PERU.

		1890.		
70	Mr. Hicks to Mr. Blaine....	Jan. 14	Protection of William Gylling, a Swedish subject residing in Peru, who, in 1881, declared his intention to become a citizen of the United States, but never took the subsequent steps necessary to the acquisition of citizenship; incloses a copy of a protection certificate which he proposes to issue to Gylling, and requests the Department's instructions in the case.	693
88	Mr. Blaine to Mr. Hicks ...	Feb. 26	Same subject: No. 70 received; the declaration of intention has not the effect either of naturalization or of expatriation. Article I of the naturalization treaty of 1869 between the United States and Sweden and Norway provides that "the declaration of an intention to become a citizen of the one or the other country has not, for either party, the effect of citizenship legally acquired." Is therefore of the opinion that the certificate should not be issued to Mr. Gylling.	694

PERU—Continued.

No.	From and to whom.	Date.	Subject.	Page.
104	Mr. Hicks to Mr. Blaine...	1890 Mar. 24	Protection to William Gylling: No. 38 received. Thinks that it would be good policy to extend some sort of protection to this class of people. They feel that the oath by which they renounced all allegiance to their native land forever cuts them off from any relief from that source, and thus they are expatriated from both the old and the new.	694
51	Mr. Blaine to Mr. Hicks....	May 8	Same subject: No. 104 received. The declaration of intention is not a renunciation of the declarant's original allegiance, but merely the expression of a purpose to renounce it. The actual renunciation is not effected until the applicant is admitted to citizenship. A government can not be held bound to protect persons who are not only not its citizens, but who have not exhibited a willingness to live long enough within its jurisdiction to acquire its citizenship. Gylling made his declaration of intention in 1881, and appears to have left the United States not long afterwards. By remaining abroad he continuously disables himself from fulfilling the conditions necessary to the acquisition of citizenship. Department is at a loss to understand why persons in a similar position "naturally look to the American legation for a recognition of their citizenship."	695

RUSSIA.

12	Mr. Smith to Mr. Blaine....	1890. June 17	Prison congress at St. Petersburg: Formally opened on the 15th instant; gives an account of the proceedings.	697
17	Same to same.....	July 3	Same subject: The congress closed its regular work on the 24th ultimo; gives an abstract of the questions discussed; the next congress is to be held at Paris; incloses translations of the declaration of the congress on the subject of extradition and of the statistics of the congress.	698
44	Same to same.....	Sept. 25	Expulsion of Jews from Russia: States facts tending to show that there is no foundation for the rumors on the subject.	701

SWEDEN AND NORWAY.

23	Mr. Blaine to Mr. Thomas ..	1890. May 15	Samoa: Article III of the general act of the Samoan conference at Berlin, June 14, 1889, provides for the establishment of a supreme court for the Samoan Islands, and the appointment of a chief justice of Samoa. Section 2 of article III states that "he shall be named by the three signatory powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway." Since there appears to be no possibility of agreement, the three Governments concerned have decided to avail themselves of the alternative. Instructs him to request the King's acceptance of the choice made by the signatory powers, and to intimate to the minister of foreign affairs that the President would be pleased with the appointment of a subject of the King. Incloses a copy of Senate Miscellaneous Document No. 81, Fifty-first Congress, first session, containing the general act of the Samoan conference.	702
60	Same to same.....	June 2	Samoa: Incloses a copy of an identical note of this date, drawn up after a conference with the British minister and the German chargé, and sent by each of them this day to the minister of foreign affairs, asking that the King name a chief justice of Samoa.	703

SWEDEN AND NORWAY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
66	Mr. Thomas to Mr. Blaine ..	1890. July 7	Samoa: The King proposes to appoint as chief justice of Samoa Otto Conrad Valdemar Cedercrants, a Swedish subject, and associate justice of the Swedish court of appeals. Gives a sketch of the life and character of Judge Cedercrants. Recommends the acquiescence of the United States in his appointment.	705
49	Mr. Wharton to Mr. Thomas.	Aug. 5	Transportation of the remains of the late Capt. John Ericsson to Sweden: Incloses a copy of a letter of the 2d instant from the Navy Department, stating that the remains will be embarked on the United States steamer <i>Baltimore</i> , at New York, on the 23d instant, and a copy of a letter of the 2d instant from the Navy Department to Rear-Admiral Braine, giving instructions as to the ceremonies to be observed on the occasion.	706
50	Same to same	Aug. 26	Transportation of the remains of Capt. John Ericsson to Sweden: Incloses a copy of the order issued by the Navy Department on the 18th instant, with regard to the ceremonies. The <i>Baltimore</i> sailed with the remains on the 23d instant.	707
74	Mr. Thomas to Mr. Blaine ..	Sept. 15	Same subject: Describes the ceremonies accompanying the delivery of the remains of Ericsson to the Swedish Government on the 14th instant.	708
75	Same to same	Sept. 22	Same subject: Has forwarded to the Department a box containing medals designed to commemorate the transportation of the remains of John Ericsson from the United States to Sweden, presented by the King to the officers and crew of the <i>Baltimore</i> .	711
76	Same to same	Sept. 26	Same subject: The <i>Baltimore</i> sailed on the 23d instant. Recounts the attentions shown to her officers while she was at Stockholm.	711
80	Same to same	Oct. 23	Samoa: Incloses a copy of a note of the 3d instant from the minister of foreign affairs, announcing that the King has appointed Otto Conrad Valdemar Cedercrants chief justice of Samoa; and a translation of Judge Cedercrants's commission.	713
82	Same to same	Oct. 27	Transportation of the remains of John Ericsson to Sweden: Transmits copies of correspondence with the Swedish Inventors' Society on the subject.	714
83	Same to same	Oct. 29	Same subject: Incloses copies of correspondence with the minister of foreign affairs on the subject.	716

CORRESPONDENCE WITH THE LEGATION OF SWEDEN AND NORWAY AT WASHINGTON.

Mr. Wharton to Mr. Grip ..	1890. Aug. 5	Transportation of the remains of John Ericsson to Sweden: Incloses a letter of the 2d instant from the Navy Department, inviting the legation and the consular officers of Sweden and Norway to be present at the ceremonies attending the embarkation of the remains at New York on the 23d instant.	718
Mr. Grip to Mr. Wharton...	Aug. 9	Same subject: Incloses his acceptance of the invitation to attend the ceremonies at New York on the 23d instant.	719
Mr. Wharton to Mr. Grip...	Aug. 21	Same subject: Incloses a copy of the order issued by the Navy Department on the 18th instant, in reference to the salute to the flag of Sweden to be fired on the occasion of the embarkation of the remains.	720
Mr. Grip to Mr. Wharton...	Aug. 26	Same subject: Thanks for the honors paid to the Swedish flag at the embarkation of the remains of John Ericsson at New York on the 23d instant.	720

TURKEY.

No.	From and to whom.	Date.	Subject.	Page.
39	Mr. Blaine to Mr. Hirsch	1889. Dec. 7	Murderous attack upon two American missionaries, Rev. Mr. Knapp and Rev. Dr. Reynolds, in Asiatic Turkey, in 1883, by Moussa Bey: Incloses a copy of a letter of the 2d instant, and inclosure from the American Board of Commissioners for Foreign Missions, asking that diplomatic steps be taken to insure the punishment of Moussa Bey.	721
50	Mr. King to Mr. Blaine.	Dec. 10	Seizures of books offered for sale in Turkey by American missionaries: Incloses a copy of his note of the 7th instant to the minister of public instruction, proposing a method of preventing such seizures.	722
62	Same to same.	Dec. 19	Trial of Moussa Bey for murder and robbery of an Armenian named Malkhas in Asiatic Turkey in 1886: Incloses a copy of the proceedings in the trial just ended at Constantinople, resulting in the acquittal of Moussa Bey.	724
64	Same to same.	Dec. 21	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1883: Incloses copies of further correspondence with the Porte on the subject.	738
70	Same to same.	Dec. 28	American mission schools in Turkey: Their present condition satisfactory, all things considered; gives details.	739
47	Mr. Blaine to Mr. Hirsch	1890. Jan. 3	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1883: No. 39 received; has hopes that Moussa Bey will not go unpunished.	739
50	Same to same.	Jan. 13	Seizures of books offered for sale in Turkey by American missionaries: No. 59 received. Approves Mr. King's note of December 7, 1889, to the Porte.	740
82	Mr. Hirsch to Mr. Blaine	Feb. 6	Murderous attack on Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1883: No. 62 received. Approves Mr. King's note of December 18, 1889, to Said Pasha on the subject.	740
85	Same to same.	Feb. 15	Same subject: Relates the substance of his interview of the 5th instant with the Grand Vizier, in which he urged the necessity of bringing Moussa Bey to justice. The Grand Vizier promised to call the immediate attention of the minister of justice to the matter.	742
88	Same to same.	Feb. 22	Military service of cavasses and dragomans employed by foreign legations and consulates: Incloses a copy of a "note verbale" of the 13th instant from the Porte, stating that only those cavasses and dragomans who may enter the service of the consulates hereafter will be called into military service, those now in the service being exempted.	742
61	Mr. Blaine to Mr. Hirsch	Mar. 1	Murderous attack on Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1883: Incloses a translation of a memorandum read by the Sultan's private secretary to the interpreter of the legation, stating that the Sultan regretted to hear that doubts have been expressed by some officials of the United States legation as to the legality and the justice of the verdict issued in the trial of the matter of Moussa Bey; has asked for an interview with the Sultan on the subject, but it has not yet been granted.	744
96	Same to same.	Mar. 19	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1883: No. 82 received. Approves the remarks made by Mr. Hirsch at his interview of the 5th ultimo with the Grand Vizier.	745
99	Mr. Hirsch to Mr. Blaine	Mar. 19	Same subject: No. 88 received. The Sultan appears to have been led to the mistaken belief that the United States Government is demanding a reconsideration of the verdict of acquittal in the recent trial of Moussa Bey for alleged outrages against Armenians.	745
			Maltreatment of two American citizens, Moses Angel and Shalom Kanstoroom by Turkish soldiers at Jerusalem: Incloses copies of correspondence and documents on the subject. Has called on the consul general for a further report. The Grand Vizier has promised an immediate investigation.	

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
104	Mr. Hirsch to Mr. Blaine...	1890. Mar. 31	Seizures of books offered for sale in Turkey by American missionaries: Incloses a copy of a memorandum on the subject by Rev. Henry O. Dwight. Has made repeated remonstrances to the Grand Vizier on the subject.	753
76	Mr. Blaine to Mr. Hirsch...	Apr. 9	Maltreatment of Moses Angel and Shalom Kantoroom by Turkish soldiers at Jerusalem: No. 99 received. Reviews the facts in the case; instructs him to await full ascertainment of the facts before taking definite action; very positive evidence to offset the facts thus far known will be needed to exempt the Turkish authorities from a just demand for reparation.	757
113	Mr. Hirsch to Mr. Blaine...	Apr. 18	Murderous attack on Rev. Mr. Knapp and Rev. Dr. Reynolds by Mousa Bey in 1883: Incloses a copy of a note of the 7th instant from the Porte stating facts intended to show that Mousa Bey was not guilty, but adding that the parties interested are at liberty to prosecute Mousa Bey if they obtain new evidence against him; points out the misstatements in the said note; has protested against the findings of the department of justice, and stated to the Grand Vizier and the minister of foreign affairs that the United States Government looks to the Ottoman Government to make good its promises that Mousa Bey should be punished, and demanded that Mousa Bey be detained at Constantinople until Mr. Hirsch could communicate with the Government at Washington.	758
80	Mr. Blaine to Mr. Hirsch....	Apr. 19	Seizures of books offered for sale in Turkey by American missionaries: No. 104 received. Approves his representations to the Porte. Will rely upon his strenuous efforts to secure the complete protection of this legitimate American interest.	760
118	Mr. Hirsch to Mr. Blaine....	Apr. 25	Robbery of two American missionaries, Rev. Mr. McDowell and Rev. Dr. Wishard, in Asiatic Turkey, by Nestorian mountaineers, in 1889: Incloses a copy of his note of the 24th instant to the Porte, asking for the arrest and punishment of the robbers.	760
123	Same to same.....	May 3	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Mousa Bey in 1883: Incloses a copy of his note of the 1st instant to the Porte, pointing out the misstatements in the Porte's note of April 7, and claiming the promise of the Turkish Government that Mousa Bey should be brought to justice.	761
82	Mr. Blaine to Mr. Hirsch ...	May 6	Seizures of books offered for sale in Turkey by American missionaries: Incloses copies of recent correspondence with the American Board of Commissioners for Foreign Missions on the subject.	763
85	Same to same.....	May 8	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Mousa Bey in 1883: No. 113 received. Criticizes the course pursued by the Turkish Government in the matter.	764
87	Same to same	May 13	Robbery of Rev. Mr. McDowell and Rev. Dr. Wishard by Nestorian mountaineers in 1889: No. 118 received. A speedy disposition of the case is desirable.	765
90	Same to same.....	May 20	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Mousa Bey in 1883: No. 123 received. Approves his note of the 1st instant to the Porte.	765
131	Mr. Hirsch to Mr. Blaine....	May 30	Seizures of books offered for sale in Turkey by American missionaries: Incloses a copy of his note of this date to the Porte, asking for payment for certain books seized and burned by the Turkish authorities in Mesopotamia.	765
134	Same to same.....	June 4	Maltreatment of Moses Angel and Shalom Kantoroom by Turkish soldiers at Jerusalem: Has made arrangements with the Grand Vizier for a joint investigation of the matter by the United States consul at Jerusalem and the governor of Jerusalem. Incloses copies of correspondence.	766

LIST OF PAPERS.

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TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
141	Mr. Hirsch to Mr. Blaine...	1890. June 19	Riot at Jaffa, May 23, 1890: Incloses a copy of a dispatch of the 26th ultimo from the United States consul at Jerusalem, stating that on the 23d of May the Christians at Jaffa were attacked by a Moslem mob carrying banners and armed with sticks.	768
143	Same to same.....	June 19	Robert College: An iradé has been granted for an addition to the college building.	769
98	Mr. Blaine to Mr. Hirsch...	June 20	Seizures of books offered for sale in Turkey by American missionaries: No. 131 received. Requests information on certain points.	770
100	Same to same.....	June 25	Maltreatment of Moses Angel and Shalom Kanstoroom: No. 134 received. Approves his action.	770
146	Mr. MacNutt to Mr. Blaine.	July 3	Riots at Erzerum: Gives details with regard to recent conflicts between the Christians and Moslems at Erzerum.	770
112	Mr. Wharton, to Mr. MacNutt.	July 25	Maltreatment of Moses Angel and Shalom Kanstoroom: Incloses a copy of No. 173 of the 23d ultimo from the United States consul at Jerusalem, stating that the Government had made the most ample apology, casting all the blame upon the stupidity and ignorance of the official and soldiers.	771
151	Mr. MacNutt to Mr. Blaine.	Aug. 14	St. Paul's Institute at Tarsus: An iradé has been promised for the foundation of the institute.	772
171	Mr. Hirsch to Mr. Blaine ...	Oct. 22	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1833: Moussa Bey has been banished to Medina.	773
177	Same to same.....	Nov. 4	Schools conducted by American missionaries at Mejdcl Shema, Ain Kunyet Banias, and Hamath, closed by the Turkish authorities in 1834, have been permitted to be reopened. Incloses copies of correspondence on the subject.	773
183	Mr. Blaine to Mr. Hirsch ...	Nov. 17	Murderous attack upon Rev. Mr. Knapp and Rev. Dr. Reynolds by Moussa Bey in 1833: No. 171 received. Is glad to hear of the action finally taken by the Turkish Government in the case of Moussa Bey.	775

VENEZUELA.

63	Mr. Scruggs to Mr. Blaine ..	1889. Dec. 21	Boundary between Venezuela and British Guiana: Incloses a copy of a note of the 20th instant from the foreign office, covering a copy of a protest of the Venezuelan Government against the recent action of the governor of Demerara in declaring the town of Barima a British colonial port.	776
82	Same to same.....	1890. Mar. 6	Political: Congress met on the 20th ultimo. Transmits copies of the President's message of the 1st instant; gives a synopsis of the same.	777
96	Same to same	Apr. 25	Boundary between Venezuela and British Guiana: Gives a sketch of the successive encroachments of Great Britain on the territory of Venezuela.	778
81	Mr. Blaine to Mr. Scruggs...	May 2	Same subject: Incloses a copy of Department's telegram of the 1st instant, instructing the United States minister in London to use his good offices to bring about the resumption of diplomatic relations between Great Britain and Venezuela.	779
100	Mr. Scruggs to Mr. Blaine...	May 3	Same subject: Incloses a sketch map of the territory in dispute.	779
85	Mr. Blaine to Mr. Scruggs...	May 19	Same subject: Incloses a copy of No. 229 from the United States minister in London on the subject.	780
88	Same to same.....	May 21	Same subject: No. 100, with the inclosed map, received.	780
106	Mr. Scruggs to Mr. Blaine...	June 7	Same subject: Gives an abstract of the report of the special commissioner of the Venezuelan Government to that of British Guiana; he reports the occupation of the disputed territory by the Demerara authorities as a "fact formally and fully accomplished."	780
97	Mr. Blaine to Mr. Scruggs...	June 21	Same subject: No. 106 received.....	781

CORRESPONDENCE WITH THE LEGATION OF VENEZUELA AT WASHINGTON.

No.	From and to whom.	Date.	Subject.	Page.
		1890.		
	Mr. Peraza to Mr. Blaine....	Feb. 17	Boundary between Venezuela and British Guiana: Points out the dangers threatening all the American states through Great Britain's forcible seizure of Barima and the control which she has thereby gained of the navigation of the Orinoco. Requests the good offices of the United States to secure a peaceful settlement of the question.	783
	Same to same.....	Apr. 24	Same subject: Urges the importance of sending instructions to the United States minister in London to use his good offices in the matter, that the questions involved may be submitted to arbitration.	784
	Mr. Blaine to Mr. Peraza....	May 2	Same subject: Cabled the United States minister in London on the 1st instant to use his good offices with the British Government to bring about a resumption of diplomatic relations between Venezuela and Great Britain as a preliminary step towards negotiations for the arbitration of the dispute.	784
	Mr. Peraza to Mr. Blaine ...	May 5	Same subject: Expresses his gratification at the instructions sent to the United States minister in London; conveys the thanks of the President of Venezuela.	785
	Mr. Blaine to Mr. Peraza ...	May 19	Same subject: Lord Salisbury has informed the United States minister in London that he wished to consult with the colonial office before replying to his suggestions.	786
	Mr. Peraza to Mr. Blaine ...	May 20	Same subject: Transmits two maps showing the successive encroachments of Great Britain on the territory of Venezuela.	786
	Mr. Adce to Mr. Peraza	July 9	Same subject: The United States minister in London presented Señor Pulido, the special envoy from Venezuela to Great Britain, to Lord Salisbury on the 25th ultimo.	788

CORRESPONDENCE.

ARGENTINE REPUBLIC.

Mr. Pitkin to Mr. Blaine.

No. 25.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, January 10, 1890. (Received February 20.)

SIR: I have the honor to report that yesterday, in a personal interview with Minister Zeballos, I presented to him an abstract of the message of the President of the United States in relation to an extension of our merchant marine, taken by me from a London print, upon reading which the minister expressed much gratification, and said he would at once exhibit it to the President of the Republic, and that, to whatever length our Government was ready to proceed in order to strengthen the commercial ties between the two Republics, the Argentine Government would be found ready to coöperate. His manner, as well as terms, were so affirmative that I deem it proper to communicate the interview. He especially welcomed this expression from the President, because, he remarked, Argentine statesmen had for some time past felt a grave apprehension lest our disposition in reference to foreign commerce fell short of our professions in that regard. He further took occasion to remind me that, in my address on the occasion of my presentation to the President of the Republic, I had anticipated President Harrison's expressions in that behalf.

I have, etc.,

J. R. G. PITKIN.

Mr. Pitkin to Mr. Blaine.

No. 48.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, April 19, 1890. (Received May 23.)

SIR: The attention of the Department is seriously invited to the fact that grave disquiet has not only prevailed at this capital since my arrival here last October, but has grown with its cause, financial depression, until now there are sober misgivings lest early disorder may ensue. As a goodly number of persons, native or naturalized citizens of the United States and resident here, forecast the possibility of an attempt at revolution and the need of recourse to this legation for passports in order to enjoy protection from personal injury or impressment into Argentine military service. I have respectfully to ask the attention of the Department to the terms of the affidavit to the blank application furnished the legation for a passport to either class of declarants. Many persons of each class have long dwelt here, are engaged in business, have never or but infrequently visited the United States, have

rarely, if ever, sought a renewal of their passports, and have no residence save in this Republic, and no intent to return at any fixed period to discharge the duties thereto of citizenship, yet have never qualified as Argentine citizens, nor disavowed their attachment for the United States, and now want its passport. In several such instances I have felt constrained to refuse a passport because of the long lapse of time since the applicant's departure from our country, his total cessation of relations to it, and continuous omission to supply himself with a passport. But cases arise where the rule might, it appears to me, be fitly relaxed. The present passport forms came to this legation accompanied with Department circular of August 20, 1888, instructing their use "in the place of those heretofore transmitted," which (as to natives) required no oath, as the new form requires, as to domicile in the United States, place, occupation, and intent of return to reside and discharge the duties of citizenship; and which (as to naturalized citizens) required no oath, as the new form requires, as to domicile in the United States, place, and occupation, but did require of the declarant a sworn intent of return there and performance of a citizen's duties. The fact that the affidavit in the old (native) form, as to temporary residence, is so fully extended in the new (native) form, to permanence of native domicile in, statement of occupation in, and intended return to, the United States, and the fact that the affidavit in the old (naturalized) form is likewise extended to permanence of original domicile and statement of occupation, exhibits so material a difference that the recited conditions here compel me to this communication.

It is admitted in behalf of several natives of the United States, long resident here, that their intent of permanent return obviously holds steadfast, and that, while they have established necessary domiciles here during a sojourn devoted largely to promoting a development of traffic with the United States, they have confidently relied upon the old (native) blank form (as to "temporary residence") to maintain themselves, as they can not do under the new form, in a definite and uninterrupted *status* as United States citizens, which the new passports would import. A long, extended absence of a United States citizen in Europe might, perhaps, import less intent to return, as a rule, than such an absence in this country, whose immature conditions invite our citizens to enterprising tributary to home interests. Often these absentees here are, in effect, our temporary pickets in commerce, and responsive to North American advantage. They hold aloof from its political affairs, and stand at their posts till their ventures may release them, and are as pronounced in their attachment to the United States as if they were its uniform. But the new blank estops them from asking for the passport of their native country, in which, despite their intent, they have neither occupation nor domicile. These cases seem to be stronger than those of naturalized citizens of the United States long absent from it, in whose intent to return might reasonably be presumed less warmth than in the intent of natives.

Should any local trouble occur against which this Government might deem it expedient to recruit a force, these folk, born in, or naturalized by, the United States, would call upon this legation for passports only to find themselves unable to make the prescribed affidavit to that end.

With this presentment, I respectfully submit an inquiry whether the new blank forms may not admit of qualification under circumstances that disclose both the good faith and the possible hazard of an applicant.

I have, etc.,

J. R. G. PITKIN.

Mr. Blaine to Mr. Pitkin.

No. 52.]

DEPARTMENT OF STATE,
Washington, May 26, 1890.

SIR: I have received your No. 48, of the 19th ultimo, stating that, in view of the uncertain condition of affairs in the Argentine Republic, numerous applications for passports will be, in all probability, made to the legation by citizens of the United States long domiciled in that country and who are engaged in trade or other occupations. You further state that these persons have never assumed Argentine allegiance, regard themselves as American citizens, and declare it to be their intention to return at some time to the United States. You add that the blank forms of application for passports seem to exclude such cases.

The Department is of opinion that legitimate association in business enterprises connected with commerce between the United States and the country of residence of the person claiming American citizenship, while entailing protracted and indefinite sojourn abroad, is not incompatible with an intent to return; but such intent must satisfactorily appear. The blank forms contemplate the statement of facts evidencing, of themselves, a retention of United States domicile, but where those facts do not exist, the intention to return some time must be satisfactorily established otherwise, and not be obviously negated by the circumstances of residence abroad.

I am, etc.,

JAMES G. BLAINE.

AUSTRIA-HUNGARY.

Mr. Grant to Mr. Blaine.

No. 57.]

LEGATION OF THE UNITED STATES,
Vienna, January 18, 1890. (Received February 8.)

SIR: I have the honor to inclose herewith a copy of the translation of a note which I received yesterday from Baron Pasetti, chief of section of the ministry of foreign affairs. This is in reply to a note which I addressed to Count Kalnoky, under date of October 5, 1889, upon the subject of the arrest, at Wolfurt, Austria, of Mr. Frank Xavier Fisher, a naturalized citizen of the United States. I inclosed to you, in my dispatch No. 37, under date of October 10, 1889, a copy of my note to Count Kalnoky, which was written in compliance with your instruction No. 21, under date of September 19, 1889.

In the copy of the complaint, which was inclosed in your instruction No. 21, Fisher states that he was arrested on the evening of August 21, and was thrust into jail, where he was detained until the morning of August 22. He also states that when he was arrested he informed the local authorities at Wolfurt that he was an American citizen, which fact he offered to prove by *showing his passport, which they refused to examine*. Baron Pasetti states in his note that the local authorities at Wolfurt or Bregenz say in their report to the minister of foreign affairs that Fisher was arrested and questioned as to his "liability to military duty, and was transported on the same day to the district authorities at Bregenz. Not proving his American citizenship, he had to be confined in order to prevent his escape."

"On the following day he [Fisher] was examined as early as 7 o'clock in the morning, and having shown by *producing his passport* that he was a United States citizen, which fact was also proved by the records, which showed that his name was struck from the list of those who were liable to military duty, according to the provisions of the treaty of September 20, 1870, he was immediately set at liberty."

I think that the local authorities at Wolfurt should have made an investigation as to whether Fisher had violated their laws before arresting him, and that the arrest and confinement in a common jail of an American citizen, with the mere explanation that it was too late in the afternoon or evening to investigate thoroughly his case, is a very serious matter, especially as reference to their own records would have shown them that Fisher was not liable to military duty.

I have, etc.,

F. D. GRANT.

(Inclosure in No. 57—Translation.)

Baron Pasetti to Mr. Grant.

VIENNA, January 15, 1890.

The imperial royal ministry of foreign affairs has not failed to communicate to the imperial royal ministry of the interior the complaint made by Franz Xavier Fischer, a citizen of the United States, regarding his arrest by the imperial royal authorities

at Wolfurt, and to request that steps be taken in order to have a full report on this case.

The above-mentioned ministry now sends information that the following is the result of the investigations which were made:

Franz Xavier Fischer, after his arrival at Wolfurt on the 21st of August last, was questioned by the police as to his liability to military duty, and was on the same day transferred to the district authorities at Bregenz. As he did not prove his American citizenship, he had to be placed in confinement in order to prevent his escape.

On the following day he was examined as early as 7 o'clock in the morning, and having shown, by producing his passport, that he was a United States citizen, which fact was also proved by the records, which showed that his name was struck from the list of those who were liable to military duty, according to the provisions of the treaty of the 20th September, 1870, he was immediately set at liberty in conformity with Article II of the above mentioned treaty.

An excuse for this deplorable occurrence may be found in the circumstance that Mr. Fischer's transfer to the district authorities took place at such an advanced hour of the evening that the officials were unable to make the necessary investigations and to ascertain his American citizenship; otherwise he would not have been detained longer than it was necessary, as is shown by the course of the official proceedings.

The ministry of the interior has nevertheless thought proper to admonish the officials connected with Fischer's arrest, inasmuch as inattention to duty is to be imputed to them.

While the undersigned has the honor of bringing the foregoing to the knowledge of the honorable envoy extraordinary and minister plenipotentiary of the United States of America, Col. Frederick D. Grant, he begs to avail himself, etc.,

(For the minister of foreign affairs.)

M. PASETTI.

Mr. Blaine to Mr. Grant.

No. 45.]

DEPARTMENT OF STATE,
Washington, February 11, 1890.

SIR: I have received your No. 57, of January 18, 1890, touching the case of Frank Xavier Fischer, an American citizen. The statements of Baron Pasetti's note confirm the Department's previous presentation of the matter, and show that Mr. Fischer was thrown into jail at Wolfurt, Austria, on the evening of August 21, 1889, where he was confined until the next day, when he was liberated.

The explanation of the local authorities for their hasty action is not altogether satisfactory. As you very properly remark, "the local authorities at Wolfurt should have made an investigation as to whether Fischer had violated their laws before arresting him, and that the arrest and confinement in a common jail of an American citizen, with the mere explanation that it was too late in the afternoon or evening to investigate thoroughly his case, is a very serious matter, especially as reference to their own records would have shown them that Fischer was not liable to military duty."

You may address the minister for foreign affairs in the sense of your comment upon the incident and suggest that such regrettable occurrences, involving violent and unnecessary interference with the liberty of an American citizen in contravention of treaty, might be averted by a simple preliminary investigation of the facts. Mr. Fischer was doubtless as able and ready to prove his citizenship and exemption from military service when arrested as he was the day after a night's imprisonment.

I am, etc.,

JAMES G. BLAINE.

Mr. Grant to Mr. Blaine.

No. 63.]

LEGATION OF THE UNITED STATES,
Vienna, February 24, 1890. (Received March 17.)

SIR: Having found it necessary on more than one occasion recently to ask special instructions relative to the propriety of issuing a certain passport, it is with considerable reluctance that I again recur to the subject, being most unwilling to appear to trespass on the patience of the Department. It is, however, of importance, I think, that this legation should receive for its guidance the Department's opinion on one or two points relating to the issuance of passports in general, and to the application for a passport of one Bela Washington Fornét in particular. From the course recently taken by the authorities here in ordering the expulsion from this empire of certain naturalized citizens of Austro-Hungarian birth, and from a conversation which I had with Baron Pasetti, chief of section at the foreign office, I am convinced that the purpose of this Government is to deny, *under certain circumstances*, to former subjects of this empire who have been naturalized, not only in the United States, but in other countries, the right of domicile within the dominions of Austria-Hungary. It would seem that no restriction whatever is placed upon the emigration of such subjects of this crown as may choose to seek their fortune in other lands, or to their subsequent assumption of allegiance to the government within whose territories they may have found homes. When, however, such former subjects of this empire have emigrated at or just before the age when they would be required, under the laws of this country, to enter the army, this Government seriously objects to their return to the land of their nativity to engage in business, or otherwise to establish a residence, with an acquired allegiance to some foreign state, such a course, it is contended, is calculated to disturb public order, and to have an injurious effect generally upon the military system of this Government, inasmuch as the very presence among their old associates of these naturalized citizens or subjects of other powers operates to produce irritation and dissatisfaction in a community which has continued faithful in its allegiance to this empire. To state the situation more intelligibly, let us suppose, as is frequently the case, that a young Viennese emigrates to America when he is seventeen years of age. After remaining in the United States for five or six years, during which time he may have had the opportunity of gaining considerable business experience, he takes out his naturalization papers, and then at the age of twenty-two or twenty-three years returns to Vienna and engages in business on his own account. The companions of his youth, who have not emigrated, are, and have been for some years, rendering, and will for several more be required to render, military duty, the age at which subjects of the imperial and royal Government of Austria-Hungary are cited for service in the army being eighteen years, and the period of service continuing for nine years. It is apparent that these soldiers of the empire are at a great disadvantage when, in after years (their terms of military service having been completed), they attempt to enter into competition in business with the naturalized American who was formerly their associate. Not only has the latter secured the start on them by reason of the actual time during which he has been doing business for himself while they were in the army, but also by reason of the business education acquired in America during his minority, which he uses to advantage in the conduct of his affairs here. It moreover becomes a matter of every-day observation, that while the naturalized American

is enjoying all the privileges belonging to, he is subjected to none of the burdens imposed upon, an Austrian subject.

While the naturalized American may not go so far as to parade and boast of the enviable position to which he has attained (though it is said this is not infrequently the case), *his very presence* is, as I have remarked above, a source of discomfort to his quondam friends, and tends to create discontent and possibly resentment towards a form of government believed to be for the best interests of this people. It is on these grounds that the imperial and royal ministry is decided in its objection to the return, during the military period, of a former subject of the empire who has acquired a foreign allegiance, and it is my impression, derived from informal conversations on the subject in Klamers's case (Instruction No. 25, of October 8, 1889), that this Government reserves to itself, notwithstanding treaties of naturalization, etc., the right to expel such naturalized citizens or subjects of foreign powers, whenever it believes its interests demand such action. A decree of expulsion is not, it is argued, intended as a punishment of a foreigner, but as a means of self-protection. It would seem to be almost superfluous for me to observe that the class of citizens herein referred to, while regarded as dangerous to this Government, are certainly useless to that of the United States. Year after year they maintain a residence abroad, unless interfered with, enjoying certain immunities by virtue of their American citizenship, and rendering no equivalent whatever to the United States Government. Such being the situation of the Austro-Hungarian authorities with respect to this subject, and the same having become, it is supposed, rather generally known through the issuance of several decrees of expulsion, naturalized American citizens residing in this empire have been spurred to unusual activity in providing themselves with passports in order that they may be fortified at least to that extent in resisting any interference with their rights of domicile.

The facts set forth in many of the applications from such naturalized American citizens give rise to serious doubts as to their right to receive passports, and whereas I should regret to accord the protection of the Government where it is not due, it would concern me still more to decline to grant a passport, through a misinterpretation of laws and facts, where the applicant was justly entitled to it. Certain questions of fact in regard to the issuance of passports, not appearing to be covered by the regulations in regard thereto, I have the honor to ask the Department's views on the following points:

First. For how many years may a citizen of the United States reside abroad without losing his American domicile?

Second. Would any limit of time in this regard apply to native as well as naturalized citizens, or only to the latter?

Third. Applicants for passports being required to state under oath the time within which they intend returning to the United States, what is the longest period of time they may fix?

Fourth. If an applicant refuses to swear that he will return to the United States within a fixed time, should a passport be refused him?

Fifth. Does the limit of time referred to in questions three and four, apply equally to native born and to naturalized citizens?

Sixth. If application is made to me for the renewal of a passport, and it appears on examination that the time has expired within which the bearer of the old passport stated his purpose of returning to the United States, and that nevertheless he has not been to America to resume his duties of citizenship, should a renewal of his passport be declined?

I can readily understand that answers to some, and perhaps to all, these questions would depend largely upon the circumstances of each individual case, and, if the Department should feel satisfied to have me do so, I will pass upon each application to the best of my ability in the light of general instructions sent to the legation during the incumbency of some of my predecessors and animated by a spirit of perfect fairness to the applicant. At the same time such specific principles, suggested by the above questions, as the Department may be able to lay down for my guidance would of course be most acceptable.

The case of Bela Washington Fornét, referred to in the first paragraph of this dispatch, is as follows:

Fornét was born in New York July 19, 1857, his parents being at the time naturalized American citizens. He left the United States on the 15th of October, 1864, when only a little more than seven years old, since which time he does not appear to have returned to the land of his nativity. When about twenty-four years of age he appeared before the mayor of Budapesth and the United States vice-consul at Budapesth, of which city he is a resident, and declared his purpose of retaining his American citizenship. He has resided abroad about twenty-six years and apparently has never before applied for a passport. It is evident that he has never rendered the duties of citizenship to the United States, and it is submitted whether he is entitled to the protection of the Government. I have declined to grant his application for a passport in advance of instructions, and now respectfully request your views in his case. His reason for applying for the passport is that he wishes to go to America. Observing that such a document would not, it is believed, be required of him to carry out his alleged purpose, and inclosing a copy of his application,

I have, etc.,

F. D. GRANT.

[Inclosure in No. 63.]

PASSPORT APPLICATION OF BELA WASHINGTON FORNÉT.

Native.

No. —:

Issued —, 18—. Applicant: Bela Washington Fornét.

I hereby apply to the legation of the United States at Vienna for a passport for myself, as follows: Born at New York on the 10th day of July, 1857.

In support of the above application I do solemnly swear that I was born at New York City on or about the 10th day of July, 1857; that my father is a naturalized citizen of the United States; that I am a native and loyal citizen of the United States temporarily residing at Barestelep; that I left the United States on the 15th day of October, 1864; that I am the bearer of passport No. —, issued by —, on the — day of —, 18—; and that I desire the passport for the purpose of going to America.

Oath of allegiance.

Further, I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without mental reservation or purpose of evasion: So help me God.

BELA WASHINGTON FORNÉT.

CONSULATE OF THE UNITED STATES AT BUDAPESTH.

Sworn to before me this 10th day of February, 1890.

LOUIS GERSTER.

Description of applicant.

Age, thirty-three years; stature, 5 feet 6 inches; forehead, straight; eyes, gray; nose, medium; mouth, medium (mustache); chin, round (bearded); hair, brown; complexion, fair; face, oval.

Identification.

BUDAPESTH, February 10, 1890.

I hereby certify that I know the above-named Bela Washington Forn6t personally and know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

ALEXANDER BAMSHOS.

Mr. Grant to Mr. Blaine.

No. 67.]

LEGATION OF THE UNITED STATES,
Vienna, March 11, 1890. (Received March 31.)

SIR: I have the honor to inclose herewith for your information a copy of a translation of a note which I have just received from Baron Pasetti, chief of section at the imperial and royal ministry of foreign affairs, which communication is in reply to a note addressed to Count Kalnoky by me, in compliance with your letter of instructions No. 25, under date of October 8, 1889, in reference to the expulsion from this empire of Hugo Klamer, a naturalized American citizen of Austrian birth. My note to Count Kalnoky was in spirit and language strictly in accordance with your instructions.

The only points brought out by this note from Baron Pasetti, which have not already been the subject of correspondence, and of which the State Department has not already been fully advised, are—

First. The intimation on the part of Baron Pasetti that a native of Austria or Hungary, who by emigration has become a citizen of the United States and afterwards returns to this monarchy, occupies so enviable a position that he fears that the example might be followed by others.

Second. The intimation that, in consequence of the framing of the "imperial military law" No. 153, of October 2, 1882, the authorities here now view or interpret the treaty of September 20, 1870, from a standpoint different from that taken by the United States Government. It is assumed that both governments were in accord as to the interpretation of this treaty until after October 2, 1882.

Third. The statement that "a change in the situation can only take place when the provisions of the treaty of 1870 are revised," and, further on, "the imperial royal minister of foreign affairs intends to revert once more to the principles involved in this question," all of which, it is presumed means that it is the intention of the imperial royal minister of foreign affairs to submit to the United States Government propositions for the amendment of the treaty of September 20, 1870. If the United States Government is willing to admit the present interpretation given to the treaty of September 20, 1870, by the Austrian authorities, then it is impossible to see why the imperial authorities should desire any change to be made in the provisions of the treaty. It might also seem useless to amend the provisions of a treaty when the officers of one of the nations concerned claim the right to change the interpretation of the treaty whenever their Government finds it convenient to make a new law. It seems not to have occurred to the baron that the authorities at Washington may refuse to submit to the changes made

by the Austrian authorities in the interpretation of this treaty, or that the Government at Washington might refuse to negotiate for an amendment, upon the ground that there were cases pending which the American Government considered violations of the treaty on the part of the Austrian Government.

In awaiting, Mr. Secretary, your further instructions,
I have, etc.,

F. D. GRANT.

[Inclosure in No. 67.—Translation.]

Baron Pasetti to Mr. Grant.

VIENNA, March 5, 1890.

The honorable envoy of the United States of America, Col. Frederick D. Grant, was pleased to revert to the expulsion of Hugo Klammer in his esteemed note of November 12 last, No. 23, and to ask for information relative to the charges preferred against him by the director of police of this city.

The ministry of foreign affairs has accordingly reexamined the records relating to Klammer's expulsion, and has come to the conclusion that the proceeding adopted at the time by the authorities was correct and lawful. The expulsion took place in conformity with article 2, section 5, of the law of June 27, 1871, No. 88, because his stay in Austria was considered inconsistent with public order.

Klammer, at the time he was still an Austrian citizen, had repeatedly neglected to obey the summons to perform his military duty, and had acquired his American citizenship at the very age when he was liable to serve in the army, without having received the permit to emigrate, which the Austrian laws prescribe to persons under such circumstances. Not coming under the provisions of 1, 2, and 3, of Article 2, of the treaty of September 20, 1870, he was not, on his return to Austria, held to perform subsequent military service. The treaty has therefore not been violated, inasmuch as the United States citizenship of Klammer was recognized.

The above-mentioned treaty, however, does not deprive the imperial royal Government of the right to issue a decree of expulsion against any foreigner whose stay in the country may be considered as being inconsistent with public peace. In the present case the United States citizenship was obtained with the evident intention, or at least with the full knowledge, of avoiding, by so doing, the performance of the duties of an Austrian subject, under the protection of the treaty of the year 1870.

The naturalization took place, therefore, when regarded from an Austrian legal point of view, doubtless in *fraudem legis*. The return of such a person to his former home for the purpose of final settlement, is an open disregard of the laws of the country, calculated not only to prompt others to do likewise, but also to excite the envy of those subjects who perform the duties imposed upon them.

In the note of November 12 last it is admitted that Klammer, after having been summoned for military duty, had taken steps to have his name struck from the army list; that he was aware, therefore, of his liability; and that he acquired his United States citizenship without awaiting the result of his application.

For these reasons the imperial and royal Government must protest against the return of such individuals as being detrimental to public order.

The provisions of the Austrian and of the Hungarian military laws of October 2, 1862, No. 153, were not framed until after the treaty of September 20, 1870, had been concluded. The result is that the United States Government does not always judge the proceedings of the authorities here against former Austrian or Hungarian subjects from the same point of view, however justified the measures may be, according to our laws.

A change in this situation can only take place when the provisions of the treaty of 1870 are revised, which gave rise to these misunderstandings, keeping intact the stipulations which have proved otherwise so beneficial and well adapted. The Government of the United States will perhaps be the more ready for such a revision, as it can hardly be desirous to receive an increase of a class of individuals who remain in the country only long enough to acquire naturalization and then return to their former home to live, under the protection of the treaty. The I. and R. ministry of foreign affairs intends to revert once more to the principles involved in this question.

Leaving it to the option of the honorable envoy of the United States to make his Government acquainted with the contents of the foregoing statement, the undersigned begs to avail himself, etc.

(For the minister of foreign affairs.)

M. PASETTI.

Mr. Blaine to Mr. Grant.

No. 51.]

DEPARTMENT OF STATE,
Washington, March 25, 1890.

SIR: Your dispatch, No. 63, of the 24th ultimo, has been received.

You therein present certain general considerations touching the circumstances under which naturalized citizens of the United States frequently return to, and reside in, Austria-Hungary, and you further state the case of one Bela Washington Fornét, an applicant for a passport. You thereupon ask general and special instructions.

Your recital of the political and business advantages which accrue in Austria-Hungary to a native thereof, by reason of a change of his allegiance in youth and return to his native place there to enjoy exemption from the burdens and duties which bear upon his former associates, is, of itself, sufficient to justify the caution with which the question of alien protection should be treated in such cases, and throws light on the observed tendency in Austria-Hungary to restrict the rights of domicile of such persons.

In view of the frequent applications for passports made to you by persons so situated, and generally by American citizens whose stay abroad is indeterminate, you formulate six points upon which you ask the views of the Department:

(1) For how many years may a citizen of the United States reside abroad without losing his American domicile?

(2) Would any limit of time in this regard apply to native as well as naturalized citizens, or only to the latter?

(3) Applicants for passports being required to state under oath the time within which they intend returning to the United States, what is the longest period of time they may fix?

(4) If an applicant refuses to swear that he will return to the United States within a fixed time, should a passport be refused him?

(5) Does the limit of time referred to in questions 3 and 4 apply equally to native-born and naturalized citizens?

(6) If application is made to you for the renewal of a passport, and it appears on examination that the time has expired within which the bearer of the old passport stated his purpose of returning to the United States, and that, nevertheless, he has not been to America to resume the duties of citizenship, should a renewal of his passport be declined?

In reply to your first question, I have to say that there is no fixed term of foreign residence by which the loss of American domicile is decided. The domicile of a person depends upon his intention, which is to be determined upon all the facts in the case. In the determination of this question no distinction is made between native and naturalized citizens, but the comparative periods of residence in this and in foreign countries are to be considered in arriving at the real intention of the individual.

This observation answers your second question.

From what has been said, it results that the Department is unable to fix a certain and constant period within which a person must return to the United States. This answers your third and fourth questions, and the reply made to your second question applies also to your fifth.

In answer to your sixth question, I have to say that where, in his application for a passport, a person makes oath that he intends to return to the United States within a certain time, and afterwards, when he applies for a renewal of his passport, it appears that he has not fulfilled that intention, this circumstance raises a doubt as to his real

purposes and motives, which he may be called upon to dispel. The unfavorable presumption which he has by his own act created is not conclusive against him, but he should be asked for explanation.

As has been stated no distinction is made between native and naturalized citizens. But certain elements of fact may exist in the case of the latter which do not arise in the case of native citizens. For example, we will take the case of a native-born subject of a foreign power, who, having grown up under its protection and owing it allegiance, comes to the United States and immediately after acquiring naturalization returns to his country of origin to reside, claiming exemption from the burdens of its citizenship, but performing none of the duties of citizenship in the United States. To permit such a thing to be done for the purpose of evading the obligations of allegiance, would be to promote a fraud under the guise of expatriation. To meet such a case we find that it has generally been provided in our treaties of naturalization that, where a citizen of one of the contracting parties, naturalized under the laws of the other, returns to his original country and resides there for two years, he may be held to have renounced his naturalization. The adverse presumption thus created may be rebutted. In deciding whether it has been, all the facts in the case must not be considered together, but these facts must be inconsistent with his resolve and his practical ability to return hither and fulfill the obligations of citizenship.

I gather from the tenor of your dispatch that the circumstance of the applicant being engaged in business in the country of his residence may have its influence in leading you to a conclusion. The fact may have importance, in opposite directions indeed, in connection with all the other facts. An American, whether by birth or naturalization, residing abroad, in representation of an American business, and keeping up an interested association with this country, is in a different case from an alien who returns, immediately after naturalization, to his native place, there to engage in a local calling and, it may be, marrying there and exhibiting every evidence of an intention to make his home among his kindred. In the latter instance it would require strong proof to countervail the *prima facie* presumption that his naturalization was obtained solely to enable him to dwell thereafter in his native land without subjection to the duties and burdens of native citizenship.

I now proceed to consider the special case of the application of Mr. Bela Washington Fornét, as presented by you. Born in New York July 19, 1857, of parents then naturalized citizens of the United States, he went abroad when only a little more than seven years old, and has remained out of this country for over twenty-five years. He would appear to have resided at Budapesth continuously for about nine years at least, or since the declaration he is stated to have made there before the mayor and the United States vice-consul, when about twenty-four years of age, of his purpose of retaining his American citizenship. He has, you add, apparently never before applied for a passport. His sworn application is consistent with these statements, adding nothing thereto except that he desires the passport "for the purpose of going to America," but to what part of America is not stated. The old form is employed, and does not include the declaration, now required, of intention to return to the United States and fulfill the duties of citizenship.

Knowledge upon certain points might aid the Department in giving you more precise instructions in this case than are now practicable. It might be stated, for instance, whether his parents were originally subjects of Austria-Hungary, and whether they abandoned their domicile in the United States, although this is not essential in view of the fact,

as would seem, that the Austro-Hungarian Government makes no claim upon the applicant's allegiance. If the circumstances of his return gave rise to an option of citizenship on his part after reaching majority, his right to do so would appear to have been acquiesced in by the Austro-Hungarian authorities. Information is also desirable upon the character of Mr. Fornét's domicile at Budapesth, and touching the nature and effects of his contemplated visit to "America."

If the facts point to his making Budapesth his permanent home, the presumption arising therefrom is not to be offset by a *merely temporary* visit to the United States, as to a foreign country. The essential thing is that his domiciliary status in Austria-Hungary shall not evidently conflict with any declared intent to make his home in the country from which he claims protection as a citizen.

A copy of the new form of application, of which copies are herewith inclosed, may be sent to M. Gerster, the vice-consul at Budapesth, with instructions to invite Mr. Fornét to fill it out in substitution of the one already filed with you. M. Gerster may, at the same time, be instructed to put to the applicant such inquiries as you may deem calculated to throw light on his actual status and intentions. If the result should satisfy you that the passport is not sought evasively, and that an honest and realizable purpose is manifest to make the United States his home and assume the duties of a good citizen, notwithstanding the adverse presumption raised by the facts so far as disclosed, you may issue him the passport.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 5.]

FORM OF APPLICATION FOR PASSPORT BY A NATIVE CITIZEN OF THE UNITED STATES ABROAD.

No. —.

Issued, —, 18—.

I, —, a native and loyal citizen of the United States, hereby apply to the legation of the United States at — for a passport for myself, accompanied by my wife, —, and minor children, as follows: —, born at — on the — day of —, 18—, and —.

I solemnly swear that I was born at —, in the State of —, on or about the — day of —, 18—; that my father is a — citizen of the United States; that I am domiciled in the United States, my permanent residence being at —, in the State of —, where I follow the occupation of —; that I left the United States on the — day of —, 18—, and am now temporarily sojourning at —; that I am the bearer of passport No. —, issued by —, on the — day of —, 18—; that I intend to return to the United States within — with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of —.

Oath of allegiance.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

LEGATION OF THE UNITED STATES AT —.

Sworn to before me this — day of —, 18—.

Description of applicant.

Age, — years; stature, — feet, — inches, Eng.; forehead, —; eyes, —; nose, —; mouth, —; chin, —; hair, —; complexion, —; face, —.

Identification.

I hereby certify that I know the above-named _____, 18—, personally, and know h— to be a native-born citizen of the United States, and that the facts stated in h— affidavit are true to the best of my knowledge and belief.

(Address of witness.) _____.

NOTE.—This form is to be filled out in duplicate, one copy being retained on the files of the legation and the other forwarded with the quarterly returns to the Department of State. It may be so filled out by the applicant, in which case no fee therefor is chargeable.

Mr. Grant to Mr. Blaine.

No. 81.]

LEGATION OF THE UNITED STATES,
Vienna, May 12, 1890. (Received May 24.)

SIR: With reference to previous correspondence on the subject, I now have the honor to inclose for your information a copy of a note addressed by me on the 19th of March last to Count Kalnoky, imperial and royal minister of foreign affairs, in the spirit of your instruction No. 45, of the 11th of February last, relative to the arrest and imprisonment of Franz Xavier Fischer, and a translation of a note in reply thereto of the 4th instant.

I have, etc.,

F. D. GRANT.

[Inclosure 1 in No. 81.]

Mr. Grant to Count Kalnoky.

LEGATION OF THE UNITED STATES,
Vienna, March 19, 1890.

YOUR EXCELLENCY: I have the honor to refer again to the case of F. Xavier Fischer, a naturalized citizen of the United States, who was arrested at Wolfurt, Austria, on the 21st of August, 1889.

In the note which I had the honor to address to your excellency, under date of October 5, 1889, it is stated that when Mr. Fischer was arrested he informed the officer arresting him that he was an American citizen, and offered to show his passport, which the officer declined to examine. In the explanation of this incident, which is given in the esteemed note from the imperial and royal ministry for foreign affairs, under date of the 15th of January, 1890, his excellency Baron Pasetti is pleased to say: "On the following day he [Fischer] was examined as early as 7 o'clock in the morning, and having shown by producing his passport that he was a United States citizen, which fact was also proven by the records, which showed that his name was struck from the list of those who were liable to military duty," etc. It appears that justice demanded that the local authorities at Wolfurt should have made an investigation before arresting Mr. Fischer, as to whether he had violated any law, for doubtless Fischer was as able and ready to prove his American citizenship and exemption from military service at the moment of his arrest as he was at the early hour of 7 o'clock the following morning, after a night's imprisonment.

The arrest of an American citizen in a foreign land is of course a serious affair, but it seems more serious when he is confined in a common jail over night, because of the late hour of his arrest and the neglect of investigating his case before morning, especially when it is shown that a mere reference to the records would have proven that the prisoner was not liable to arrest and punishment.

Mr. Fischer's case having been reported to the Government of the United States, the honorable Secretary of State, at Washington, feels that the authorities at Wolfurt were hasty in their arrest of Mr. Fischer, and he directs me to address a note to your excellency, "suggesting that this regrettable occurrence, involving violent and unnecessary interference with the liberty of an American citizen, in contravention of

treaty, might have been averted by a simple preliminary investigation of the facts.”
In placing this suggestion before your excellency, I also take the opportunity to renew, etc.

F. D. GRANT.

[Inclosure 2 in No. 81.—Translation.]

Baron Pasetti to Mr. Grant.

VIENNA, May 4, 1890.

In the esteemed note of March 19 last, No. 37, the honorable envoy extraordinary and minister plenipotentiary of the United States of America was pleased to revert to the case of Franz Xavier Fischer, an American citizen, who was arrested on August 21, 1889, at Wolfurt.

The imperial and royal ministry of foreign affairs now has the honor to inform the honorable envoy of the United States most respectfully that the imperial and royal district captaincy at Bregenz has been reprimanded for allowing the official to overlook the fact that Fischer's name had been struck from the list of those owing military duty, and that this official had neglected to ascertain Fischer's nationality on the same day on which he was arrested, the observance of which precautions would have prevented the recurrence of this unpleasant incident, the arrest of Fischer would not have taken place at all, or at least he would have been set at liberty the same evening.

Finally the imperial and royal ministry of foreign affairs renews the expression of its regrets that in the present case the incorrect proceeding of a subordinate official at Bregenz has led to the unjustifiable arrest of an American citizen.

The undersigned avails himself, etc.
(For the minister of foreign affairs.)

M. PASETTI.

Mr. Blaine to Mr. Grant.

No. 59.]

DEPARTMENT OF STATE,
Washington, May 16, 1890.

SIR: I have to acknowledge the receipt of your dispatch, No. 67, of the 11th of March last, in which you inclose a translation of a note of Baron Pasetti, of the 5th of the same month, in relation to the expulsion of Mr. Hugo Klamer and to the naturalization treaty between the United States of America and Austria-Hungary.

The case of Mr. Klamer is passed by in Baron Pasetti's note with little or no discussion of its circumstances, and most of his observations are devoted to general questions affecting the right of expulsion. It is regretted that his reply should have been given this direction. It is undoubtedly desirable to prevent the commission of frauds under color of the treaty, and the Department is quite of opinion that an attempt to make use of the treaty merely for the purpose of escaping the burdens which may be involved in bearing allegiance to either of the contracting parties should be discontinued. This, however, was not, in the opinion of the Department, the case with Mr. Klamer; and the note of Baron Pasetti affords no reason to change that conclusion.

I am, etc.,

JAMES G. BLAINE.

BRAZIL.

Mr. Adams to Mr. Blaine.

No. 26.]

LEGATION OF THE UNITED STATES,
Petropolis, December 17, 1889. (Received January 15, 1890.)

SIR: I have the honor to continue my report on the progress of events here. I inclose translation of decree nominating a commission to draft a constitution, referred to in No. 23, of December 6. The Central Government by decree abolished the municipal council of Rio, substituting a commission of seven to govern the city. The same thing was done for the city of Pará, with a commission of three. By decree the army has been increased from 16,000 to over 26,000 men and the pay increased nearly double.

The recent speech of the minister of agriculture in the name of his associates, giving the programme and sentiments of the Government, is a most remarkable utterance. It is being translated, but not ready for this mail.

I have, etc.,

ROBERT ADAMS, JR.

[Inclosure in No. 26.—Translation.]

Decree No. 29. December 3, 1889.—Nominating a commission to frame the project of a constitution for the United States of Brazil.

Marechal Manoel Deodoro da Fonseca, chief of the Provisional Government, constituted by the army and navy in the name of the people, has resolved to nominate a commission, to be composed of Drs. Joaquin Saldanna Marinno, chairman; Americo Brasiliense de Almeida Mello, vice chairman; and Antonio Luiz dos Santos Werneck, Francisco Rangel Pestana, and José Antonio Pedreira de Magalhaes Castro, to frame the project of a constitution of the Republic of the United States of Brazil to be presented to the Constituent Assembly.

Done on December 3, 1889.

MARECHAL MANOEL DEODORO DA FONSECA,
Chief of the Provisional Government.
ARISTIDES DA SILVEIRA LOBO,
Minister and Secretary of the Interior.

Mr. Adams to Mr. Blaine.

No. 30.]

LEGATION OF THE UNITED STATES,
Petropolis, December 28, 1889. (Received January 30, 1890.)

SIR: I have the honor to inclose translation of the speech of the minister of agriculture, referred to in my No. 26.

On the 18th instant a mutiny occurred in the Second Artillery Regiment. At about 2 o'clock some fifty privates left their quarters carrying an imperial flag and attempted to seduce other regiments into a

pronunciamento, but were repelled, driven back, and besieged in their quarters. They fortified themselves, and turned artillery against their pursuers. At midnight they surrendered. The Government announced this to be a drunken brawl of the privates, all the officers being absent at a reception on the Chilean man-of-war. This occurrence was at once followed by a decree (translation inclosed) banishing the late premier and other citizens, followed by another decree (translation inclosed) practically declaring martial law. On December 23 a decree was issued (copy inclosed) revoking the grant made to the late Emperor, at the time of his departure. His reconsideration of his acceptance of this grant made this action on the part of the Provisional Government necessary.

On December 23 a decree was issued for an election for a constituent assembly to meet at the capitol on November 15 following. This action, following the speech of Minister Rebeiro, was a surprise, and is supposed to have been hastened by popular sentiment and the facts that both Portugal and England refused to recognize the new republican flag for want of constitutional authority, the announcement in the corps legislative of France that the republic would be recognized when a constitution had been adopted by the people, and the instructions to this legation of a similar import, announced in the President's message.

I have, etc.,

ROBERT ADAMS, JR.

[Inclosure 1 in No. 30.—Translation.]

Speech of minister of agriculture.

This manifestation, which proves not only the actual aid of the public force, but also the moral assistance of the doctrine that prevails throughout the army and navy, produces in my mind the conviction that, as a member of the Government, I shall be able to coöperate in directing our country on the way towards the most complete liberty—religious liberty, liberty of teaching, liberty of manifesting thought, liberty of a responsible press—all this by means of the maintaining of perfect order by the public force. These conditions alone can be obtained through a strong and moralized government, one which, as remarked by one of the previous orators, looks for support to public opinion.

These conditions only will permit a dictatorial, not despotic, government, constantly fiscalized by public opinion, not only desiring, but even seeking, the manifestation of that opinion.

If at the present moment that opinion is in active operation, if it has every day occasion to pronounce itself in regard to the acts of the Government, it would seem there should be no great anxiety to consult the urns. Gentlemen, consider for a moment that the urns should decide against the Republic. And yet the Republic has been established.

One of the defects of the elective system is just this, that each citizen supposes that by carrying his vote to the urn he has given all due manifestation of his opinion, and that he should no longer take any share in fiscalizing the march of public affairs. * * * I should not have taken the position I assume as coworker in the Government if I were not sure that my country is now in special circumstances to be adapted to a special regimen, to be not the imitation of defects and errors found in other countries, but a kind of governmental model. * * * Very well, then, if we wish to constitute the Republic we must find support in a truly organic doctrine, to respect and consult the real conditions of existence and improvement of society according to the revelation of that philosophy to which the representatives of the army and navy alluded.

My place is to treat of religious liberty. And I shall not hesitate for one instant in demanding of the Government, as an immediate measure, the separation of the church from the state, because this opinion is universal throughout the nation, because this is already, we may say, the law of the land though it has not yet entered into our code, which is an artificial order. We must cause this anomaly to dis-

appear, placing our *written* law in accord with the natural order of society. I shall always rejoice to see the priests of our faith employ all their activity in getting proselytes. If the Catholic faith have in our country sincere and devoted representatives, it is their duty to propagate their doctrine without the material aid of force, without the actual support of the state. * * * My motto in the administration may be expressed in two words: The strictest honesty, and the most complete publicity. * * * The Republic is the rule of the public good; the public good is prepared by society itself, the principal part of which is formed by the enormous mass of laborers who produce the principal element of production for the formation of the public wealth. * * * It is the laboring class that shall receive special attention from the Government. * * *

[Inclosure 2 in No. 30.—Translation.]

Decree banishing certain citizens.

The Provisional Government considering that the maintaining of order and of peace in the Republic is the principal duty of the Government and constitutes a social interest superior to all conveniences, whether of a political order or personal; that by positive acts and public manifestations, inimical to the national character and detrimental to order established by the public opinion of the nation, certain persons have attempted to foment within Brazil and abroad the discredit of the mother country by means of agitation which might bring disturbance of the public peace by throwing the firebrand of civil war in the country; that, however disagreeable may be the necessity of having recourse to measures of rigor, from which result limitations to the principles of individual liberty, the superior interests of the nation can not be made subordinate to the individual interests of the enemies of the nation, it is hereby decreed:

ARTICLE I. The citizens Affonso Celso de Assis Figueiredo, called Viscount de Ouro Preto, and Carlos Affonso de Assis Figueiredo are hereby banished from the national territory.

ARTICLE II. The citizen Gaspar da Silveira Martins is ordered to leave the national territory and take up his residence in one of the countries of Europe.

BY THE PROVISIONAL GOVERNMENT.

[Inclosure 3 in No. 30.—Translation.]

Decree ordering military trials.

Marechal Manoel Deodora da Fonseca, chief of the Provisional Government constituted by the army and navy in the name of the nation, considering:

That the entire nation, through all its organs of opinion expressed openly by all ranks and social classes, has adhered frankly to the Republic, the work of the revolution of November 15 last;

That this general incorporation of all opinions in adhering to the Republican form of government creates for the Provisional Government new duties, making it the depository of this situation and obliging it as such to defend it with the greatest energy against all attempts or threats until its final delivery intact into the keeping of the constituent assembly convoked for the adoption of the future constitution of the United States of Brazil;

That the meeting of the constituent assembly having been marked for the near future, nearly all the liberal reforms having been already decreed whose delay caused the revolution, and others being almost ready for promulgation, the Provisional Government has given every possible proof of fidelity to its promises made to the people of Brazil, who on their part do not cease from showing their unbounded confidence;

That, under such circumstances, the greatest of all the duties imposed on the Government is absolute firmness and the most inexorable severity in the measures necessary for the preservation of peace and in the maintaining of all interests founded on the security of propriety;

That, all possibilities of any restoration of the old order of things being eliminated, and there being no other alternative than the Republic or anarchy, any attempt against the security of the actual situation would be simply an act of disorder, destined to explore the fear of the people;

That, on the part of the Government, it would be stupid cowardice and treason to allow the good name of the Republic to be at the mercy of the ignoble sentiments of

the dregs of society employed in spreading the seeds of discontent and corruption in the minds of Brazilian soldiers always generous, disinterested, disciplined, and liberal;

That the perversity of such proceedings has no parallel, but in the horror of incalculable misfortunes necessarily connected with the triumph of disorder, decrees:

ARTICLE I. All individuals who conspire against the Republic and its Government; those who counsel or promote, by words, writing or acts, civil revolt or military indiscipline; those that attempt bribery, or allurements of any kind of soldiers or officers from their superiors or from the republican form of Government; those that spread amongst the soldiers of the army and navy false and subversive notions tending to indispose them against the Republic; those who make soldiers drunk, in order to make them disobedient, shall be judged by a military commission, nominated by the minister of war, and shall be punished with the penalties of sedition.

ART. II. All provisions to the contrary are hereby revoked.

Done in the hall of the Provisional Government of the Republic of the United States of Brazil, on the 23d of December, 1889, first year of the Republic.

MARECHAL MANOEL DEODORA DO FONSECA,

Chief of the Provisional Government.

BENJAMIN CONSTANT BOTELHO DE MAGELHAES.

M. FERRAZ DE CAMPOS SALLES.

EDWARD WANDENKOLK.

DEMETRIO NUNES RIBEIRO.

RUY BARBOSA.

QUINTINO BOCAYURA.

ARISTIDES DA SILVEIRA LOBO.

[Inclosure 4 in No. 30.—Translation.]

Decree revoking the grant made to the Emperor.

Marechal Manoel Deodoro da Fonseca, chief of the Provisional Government, constituted by the army and navy in the name of the nation, considering that:

Whereas, D. Pedro de Alcantara, after accepting and thanking the Government for the settlement of 5,000 *contos of reis* for establishing his residence in Europe, at the time when he received the decree in reference to this subject from the hands of the general who presented it to him, has now changed his deliberation declaring that he refuses this liberal offer; and,

That, repelling this act of the republican Government, D. Pedro de Alcantara pretends at the same time to continue to receive the annual endowment to himself and to his family in virtue of the right which he presumes to subsist through force of law;

That this distinction involves evidently the denial of the legitimacy of the national movement and the idea of revendication absolutely incompatible with the national will, expressed throughout all the former provinces, now states, and with the interests of the Brazilian people now indissolubly bound to the stability of the republican regimen;

That the cessation of the right of the former imperial family to the civil list is the immediate consequence of the national revolution which deposed him abolishing monarchy;

That the procedure of the Provisional Government, maintaining, in spite of this, the advantages allowed to the fallen prince, was simply a measure of republican benevolence, intended to prove the peaceful and conciliatory desires of the new regimen, and at the same a retrospective homage to the dignity which the ex-Emperor had held as chief of the State;

That the attitude at present assumed by D. Pedro de Alcantara on this subject, presupposing the survival of rights extinguished by the revolution, contains the idea of crushing the Republic and otherwise encourages hopes that are not to be reconciled with a republican regimen;

That in consequence the reasons of state and of public order which had inspired the Provisional Government, granting to D. Pedro de Alcantara the subsidy of 5,000 *contos of reis* and respecting temporarily his annual dotation;

It is hereby decreed:

ARTICLE I. D. Pedro de Alcantara and his family are banished from the territory of Brazil.

ART. II. The imperial family is not allowed to possess real estate in Brazil; they shall liquidate within two years all property of this kind held by them.

ART. III. Decree of 16th November, 1889, granting to D. Pedro de Alcantara 5,000,000,000 as subsidiary expenses for his settlement in Europe is revoked.

ART. IV. All endowments to D. Pedro de Alcantara and to his family are hereby considered as revoked from the 15th of November past.

ART. V. All provisions to the contrary are hereby revoked.

MANOEL DEODORO DA FONSECA.

RUY BARBOSA.

QUINTINO BOCAIURA.

MANOEL FERRAZ DE CAMPOS SALLES.

ARISTIDES DA SILVEIRA LOBO.

DEMETRIO NUNES RIBEIRO.

EDUARDO WANDENKOLK.

BENJAMIN CONSTANT BOTELHO MAGALHAES.

Mr. Adams to Mr. Blaine.

No. 36.]

LEGATION OF THE UNITED STATES,
Petropolis, January 10, 1890. (Received February 10.)

SIR: I have the honor to forward herewith translations of the decrees of December 31, 1889, and January 7, 1890, both of importance, of the Provisional Government.

I have, etc.,

ROBERT ADAMS, JR.

[Inclosure 1 in No. 36.—Translation.]

Decree creating two vice-presidents.

Marschal Manoel Deodoro da Fonseca, chief of the Provisional Government, constituted by the army and navy, in the name of the nation, decrees:

ARTICLE I. The offices of first and second vice-presidents or chiefs of the Provisional Government are hereby created, both of which shall be filled by appointment of the said Government.

ART. II. In the default, absence, impediment, resignation, or death of the chief of the Provisional Government, the supreme authority committed to the latter shall be transferred *ipso facto* in all its plenitude to the first vice-chief, and the latter not being present or not existing, to the second.

ART. III. Revokes all contrary provisions.

Done 31st of December, 1889.

MANOEL DEODORO DA FONSECA.

ARISTIDES DA SILVEIRA LOBO.

OFFICE OF MINISTER OF INTERIOR.

By decrees of the 31st of December, 1889, were nominated: First vice chief of the state, Dr. Ruy Barbosa, minister of finance; second vice chief of the state, Dr. Benjamin Constant, minister of war.

[Inclosure 2 in No. 36.—Translation.]

Decree separating church from state.

Marschal Manoel Deodoro da Fonseca, chief of the Provisional Government, constituted by the army and navy, in the name of the nation, decrees:

ARTICLE I. It is prohibited to the federal authority, as well as to that of the states, to grant any laws, regulations, or administrative acts, by establishing any religion, or prohibiting it; or create any difference among the inhabitants of the country, whether in the service paid for by the budget or not, through reason of philosophical or religious belief or opinions.

ART. II. All religious sects have an equal right to exercise their forms of worship according to their faith, and shall not be molested in their private or public forms of worship.

ART. III. The liberty herein instituted embraces not only individuals in their individual acts, but also churches, associations, and institutes, in which they may be associated; every one shall enjoy the perfect right to constitute societies and to live collectively according to their creed and belief without any interference of the public authority.

ART. IV. The state church is abolished with all its institutions, rights, and prerogatives.

ART. V. All churches and religious sects are allowed the juridical right of personality, to acquire property and administer it subject to the limits imposed by the laws of mortmain, with the right to the domain and administration of their property as well as their houses of worship.

ART. VI. The Federal Government will continue to provide for the livings of the present incumbents of the Catholic faith and will grant the usual subsidy to the seminaries for one year; each state will have the right to maintain the future ministers of that or of any other faith without countervailing the provisions of the preceding articles.

ART. VII. Revokes all provisions to the contrary.

(Signed by Manoel Deodoro da Fonseca and by all the seven ministers.)

JANUARY 7, 1890.

Mr. Blaine to Mr. Lee.

No. 1.]

DEPARTMENT OF STATE,

Washington, February 26, 1890.

SIR: The Department having been advised by a telegram just received from Mr. Adams that he will sail on the 27th instant from Rio de Janeiro to the United States, on leave of absence, I inclose a letter to the minister of foreign affairs of Brazil introducing you as chargé d'affaires *ad interim* of the United States at Rio de Janeiro.

I also inclose an authenticated copy of the joint resolution of the Senate and House of Representatives of the United States of America, approved by the President on the 19th instant, congratulating the people of Brazil on the peaceful establishment of their new government.

After transmitting to the minister of foreign affairs my letter introducing you as chargé d'affaires *ad interim*, you will request him to obtain an audience of the President, at which you may deliver to the latter the copy of the joint resolution above mentioned. You will furnish the minister of foreign affairs with a copy of your speech when you ask the audience.

I am, etc.,

JAMES G. BLAINE.

[PUBLIC RESOLUTION—No. 9.]

JOINT RESOLUTION congratulating the people of the United States of Brazil on their adoption of a republican form of government.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States of America congratulate the people of Brazil on their just and peaceful assumption of the powers, duties, and responsibilities of self-government, based upon the free consent of the governed, and in their recent adoption of a republican form of government.

Approved, February 19, 1890.

Mr. Lee to Mr. Blaine.

No. 56.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, April 2, 1890. (Received April 28.)

SIR: I have the honor to report that I was received yesterday (April 1) by the President for the purpose of presenting the joint resolution of Congress congratulating the people of Brazil on their assumption of the powers, duties, and responsibilities of self-government.

I inclose a copy of my speech and of the President's reply to the remarks made by me on that occasion; also a translation thereof and notice in O Paiz with translation.

I have, etc.,

J. FENNER LEE.

[Inclosure 1 in No. 56.]

Mr. Lee's remarks on delivering to the President of Brazil the congratulations of Congress.

MR. PRESIDENT: I am charged with the agreeable duty of placing in Your Excellency's hands an authenticated copy of the joint resolution of the Senate and House of Representatives of the United States of America in Congress assembled, which was approved by the President on the 19th of February last, whereby the United States of America congratulate the people of Brazil on their peaceful assumption of the powers, duties, and responsibilities of self-government.

My Government, resting upon the freely expressed will of the people of the United States, thus gives voice through their representatives to the cordial sentiments they entertain toward the people of Brazil, and utters their friendly welcome to the nation which, by adoption of self-government, has enrolled itself among the independent commonwealths of the western hemisphere. The friendship which already unites the two countries is a pledge of even closer association looking toward the attainment in the future of ends common to both. I can not permit myself to doubt that the high hopes my countrymen cherish for the advancement of Brazil in the paths of peace and of material prosperity will be abundantly realized under the beneficent influence of justice and reverence for the rights of all men.

[Inclosure 2 in No. 56.—Translation.]

Reply of the President to Mr. Lee.

I receive with the most sincere pleasure the congratulations of the Congress of the United States of America upon the auspicious assimilation of the institutions of our continent.

The mutual friendship which, happily, has always existed between Brazil and the United States of America will be from to-day, I hope, more intimate and cordial, since by the identity of our political institutions is established between the Brazilian people and the American people a virtual alliance, founded on sentiments of mutual esteem and confidence, and having in view common interests in the cause of peace and the prosperity of the American nations.

The Brazilian people, who have always had a high appreciation of the good relations maintained with the American people, will receive with gratitude this new proof of friendship from the illustrious representatives of the United States of America in Congress assembled, as well as this token of esteem which the illustrious President of a powerful Republic, your country, has offered us, having sent through you the expression of his friendly sentiments.

(Signed.)

MANOEL DEODORO DA FONSECA.

[Inclosure 3 in No. 56 —Translation.]

Notice in O Pais of the audience.

Mr. James Lee, chargé d'affaires of the United States of North America, was presented yesterday at a quarter past 1 o'clock by the minister of foreign affairs to the distinguished marshal, chief of the Provisional Government, to whom he delivered the joint resolution of congratulation to the United States of Brazil adopted by the American Congress and approved by the President of that Republic.

The marshal, having received the resolution, expressed his appreciation of this very high proof of confraternity of the great North American Republic.

There were present at the reception, besides the minister of foreign affairs, the ministers of justice and marine.

The illustrious representative of the United States of North America was conveyed to the palace of the chief of the Provisional Government in an elegant carriage drawn by a most beautiful pair of horses.

Mr. Blaine to Mr. Conger.

No. 9.]

DEPARTMENT OF STATE,
Washington, December 3, 1890.

SIR: Your legation contains evidence of the fact that a Brazilian squadron, composed of the armored cruiser *Aquidaban*, bearing the flag of Rear-Admiral Balthazar da Silveira, and the corvette *Granabara*, sailed from Rio de Janeiro about October 20 last for New York, to return the visit of friendship and congratulation made by the United States Squadron of Evolution to Rio de Janeiro in June and July of the present year.

In order that the Government of the United States might testify its appreciation of this courtesy and render the welcome given to Admiral da Silveira and his squadron equal in its demonstrations of cordiality and good will to that accorded to Rear-Admiral John G. Walker and the Squadron of Evolution under his command while in the waters of Brazil, the coöperation and assistance of the Navy, War, and Treasury Departments were requested, to the end that no official ceremony or observance proper to the occasion should be omitted.

Rear-Admiral Walker was designated by the President as his representative to receive the Brazilian admiral upon his arrival at New York and to accompany him to Washington. In this duty he was assisted by Lieut. T. B. M. Mason, naval secretary to the Secretary of the Navy, and by Lieutenants B. H. Buckingham and S. A. Staunton, officers of his personal staff, as commander-in-chief of the Squadron of Evolution. Admiral Walker, accompanied by his aids, took up his quarters at the Fifth Avenue Hotel in New York on November 23.

Rear-Admiral Gherardi, commanding the United States naval forces on the North Atlantic Station, was placed in charge of the ceremonies afloat attending the arrival of the Brazilian squadron. The *Yorktown* was ordered to report to him for temporary duty, and he was directed to form of the *Yorktown* and *Dolphin* a naval division, to await at Sandy Hook the coming of the visitors, to meet them off the bar, and to escort them to an anchorage off Twenty-third street, North River, when they would be received by the *Philadelphia*, Admiral Gherardi's flagship. Minute instructions were issued to cover all details of salutes and ceremonies and the order of escort.

Rear-Admiral D. L. Braine, commandant of the navy yard, New York, was directed to extend to the visiting squadron all official courtesies

which came within the province of the naval officer in command ashore.

Admirals Gherardi and Braine were officially informed of Admiral Walker's appointment as the President's representative, and were instructed to afford him every facility and assistance in their power.

The War Department issued the necessary orders for the salutes to be fired from the forts in New York Harbor.

The Treasury Department directed the revenue cutters of New York to assist in the ceremonies of reception, and ordered their commanding officers to report to Admiral Walker for instructions.

The coöperation of the State and city authorities of New York was also requested, and arrangements were made with the health officer to board the Brazilian vessels in the lower bay, thereby avoiding a delay in the Narrows.

The *Yorktown* anchored in the lower bay, inside Sandy Hook, Saturday afternoon, the 22d of November. The *Dolphin* came down and joined her the next morning. Arrangements were made with the signal station ashore by which the approach of the Brazilian squadron should be announced.

At 2.25 p. m. of Tuesday, November 25, the preconcerted signal was shown by the signal station, and a few minutes later the *Guanabara* appeared and then the *Aquidaban*, three-quarters of a mile astern of the leading ship. The weather was so hazy that the squadron was not made, from the signal station until close to the Hook. The *Dolphin* and *Yorktown* weighed and awaited the approaching vessels. As soon as the *Aquidaban* had crossed the bar an officer was sent to her from the *Dolphin*, with Commander Stirling's compliments, to make the usual call of ceremony.

The *Dolphin* fired a national salute of twenty-one guns, the Brazilian ensign at the main. This salute was returned by both the *Aquidaban* and *Guanabara*, the American flag at the main. The *Dolphin* then saluted Admiral da Silveira's flag with fifteen guns, which salute was returned by the *Aquidaban*, her band playing the American national air. The *Aquidaban* also dipped her colors, which compliment was returned by the *Dolphin* and *Yorktown*.

It being too late to go up the harbor, both squadrons anchored for the night, and visits were made to Admiral da Silveira by Commanders Stirling and Chadwick. At 8 a. m. of the 26th the squadron got under way and stood up the harbor in the following order, in column, *Dolphin*, *Yorktown*, *Aquidaban*, *Guanabara*. On nearing the Narrows, at 9.25, forts Hamilton and Wadsworth each fired a salute of twenty-one guns, their garrisons being paraded and the Brazilian ensign displayed.

In return, each of the Brazilian ships, as she reached the Narrows between the forts, manned yards, displayed the American ensign at the main, and fired a salute of twenty-one guns.

On approaching Governor's Island, at 10.30, the garrison was paraded and a salute of twenty-one guns was fired from the fort, the Brazilian ensign being displayed at the time. This salute was returned by the *Aquidaban*.

At 10.45, on approaching the anchorage, the Brazilian admiral was saluted by the *Philadelphia* with fifteen guns, the Brazilian flag at the fore, which salute was returned by the *Aquidaban* hoisting her jib and with the American flag at the fore. The marine guard of the *Philadelphia* was paraded, and her band played the Brazilian national hymn. These courtesies were returned by the *Aquidaban*. She also dipped her ensign and admiral's flag, which was answered by the *Philadelphia*.

At 11.10 the vessels of both squadrons anchored, the Brazilian ships being placed nearest to the Twenty-third street landing.

As soon as the *Aquidaban* had anchored in the berth assigned her near the *Philadelphia*, she was boarded by the flag lieutenants of admirals Walker, Gherardi, and Braine, who conveyed to Admiral da Silveira the welcome of their respective chiefs and the usual official compliments and offers of assistance.

Lieutenant Staunton informed the Brazilian admiral that Admiral Walker, as the President's representative, would receive his visit at the Fifth Avenue Hotel; also that Admiral Walker would give a dinner that evening to himself, his staff and commanding officers, and that on Thursday, November 27, he would escort Admiral da Silveira and the officers selected to accompany him to Washington.

At 1 p. m. Admiral Walker, attended by his staff, received Admiral da Silveira and his staff in the parlors of the Fifth Avenue Hotel. The Brazilian admiral then paid his respects to admirals Braine and Gherardi. These calls were returned later in the day. In the evening Admiral Walker, representing the President, gave a handsome dinner of twenty-four covers at the Fifth Avenue Hotel.

The Brazilians present were Admiral da Silveira, his two aides, and his commanding officers. To meet them were invited admirals Braine and Gherardi, General Howard, Chauncey M. Depew, esq., Collector Erhardt, Charles A. Dana, esq., and several other distinguished gentlemen.

On Thursday Admiral da Silveira, his aides, commanding officers, and thirteen other officers, a party of eighteen, escorted by Admiral Walker and his aides, were brought to Washington in a special car attached to the limited express, and quartered at the Arlington Hotel as the guests of the State Department. I designated Mr. Sevellon A. Brown, the chief clerk of this Department, as my representative, to personally receive in Washington the nation's visitors, and to extend to them every courtesy and welcome.

At half past 12, November 28, the Brazilian admiral and his officers, escorted by Mr. Sevellon A. Brown and Admiral Walker and his aides, were received by me at my house on Madison Place.

At 1 o'clock I accompanied the visitors to the Executive Mansion, where they were to be formally received by the President. The members of the Cabinet, major-general commanding the Army, and the principal officers of the Army and Navy present in Washington had been assembled to assist in the reception. Admiral Balthazer da Silveira, with a brief and appropriate speech in English, presented to the President the gold medal and letter with which he had been charged by the Government of Brazil. The President made a suitable response and then received the Brazilian officers in attendance upon the admiral.

The foreigners were then presented to the members of the Government and officers who had been invited to meet them, and an elaborate lunch was served.

In the evening the President gave a card reception in honor of the visitors, and invited them to remain to supper after its close. Upon their return to the Arlington Hotel they were serenaded by the Marine Band.

Saturday, the 29th, was devoted to an excursion to Mount Vernon, on the *Dispatch*. A large party of ladies and gentlemen had been invited by the State Department to meet the Brazilians. The day was fine, and a part of the Marine Band was taken on board. Lunch was

served before the arrival at Mount Vernon. In anticipation of this visit, Admiral da Silveira had caused to be sent a beautiful floral offering, which was placed at the tomb of Washington.

In the evening the Brazilian admiral and some of his officers were dined by the Metropolitan Club of this city.

On Monday, December 1, the visitors, under the escort of Admiral Walker and Mr. Sevellon A. Brown, were taken in a special car to Annapolis, where they were shown over the Naval Academy and entertained at lunch by the Superintendent.

In the evening the Secretary of the Navy gave to Admiral da Silveira and his principal officers a dinner of thirty covers at the Arlington Hotel. With the exception of Mr. Sevellon A. Brown and myself the guests were naval officers.

On Tuesday evening, December 2, Admiral Balthazar da Silveira gave a handsome dinner of eighty-six covers at the Arlington Hotel in recognition of the courtesies that he had received. His guests were the Vice President, the members of the Cabinet, the Speaker of the House, Senator Sherman, distinguished officers of the Army and Navy, the governors of the Metropolitan Club, and others. The speech-making at this, as at the other dinners, was brief but very happy and forcible in its allusions to the new Republic, and to the friendship and comity existing between the nations of the Western Hemisphere.

On Wednesday, December 3, the visitors were escorted back to New York in a special car by Mr. Sevellon A. Brown and lieutenants Buckingham and Staunton.

On the 12th of December, at 12.30 p. m., the Brazilian squadron left New York. The *Yorktown*, detailed as an escort, preceded it down the river. At the battery the *Aquidaban* fired a salute of twenty-one guns, the American flag at the main. This salute was returned by the *Yorktown*. At the Narrows the *Aquidaban* fired a second national salute of twenty-one guns, which was returned by Fort Hamilton. The *Aquidaban* needed some repairs to her anchor gear, and all the ships anchored inside the Hook.

At 12.40 p. m. of the 13th the three vessels stood out over the bar. On nearing the Scotland Light Ship the *Yorktown* sheered out of the column, and as the *Aquidaban* passed fired, at 1.30 p. m., a national salute of twenty-one guns, the Brazilian ensign at the main. This salute was returned by the Brazilian flagship, the American ensign at the main, and her band playing the American national air. The *Yorktown* then saluted the admiral's flag with fifteen guns, cheered ship, and hoisted the signal International Code: "Wish you a pleasant voyage." The *Aquidaban* returned the salute and cheers and hoisted signals: "Adieu" and "Thanks."

The *Yorktown* then stood in, and as she passed the *Guanabara* she cheered ship and hoisted the same signal. The *Guanabara* returned the cheers and signaled: "Adieu" and "Thanks."

The Brazilian squadron stood to the southward and the *Yorktown* returned to port.

The day was fine, and the salutes and ceremonies were effective and impressive.

I am directed by the President to express the great pleasure it afforded him to welcome to our shore the visitors as the representative of a friendly sister Republic—the youngest of the Southern continent. It was an auspicious occasion, and he appreciates it as such. He regards this exchange of official courtesies as one of the surest and most

direct means of maintaining and strengthening the amicable ties now happily subsisting between the United States and Brazil. Every tendency of such a visit is to promote general good feeling and to bring into more intimate friendly and personal relations the citizens of both Republics. In this sense the President viewed the recent complimentary visit of the Brazilian squadron, and every American felt a sympathetic interest in its presence in our waters, and hopes for it a safe and pleasant return voyage.

I am, etc.,

JAMES G. BLAINE.

CENTRAL AMERICA.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, June 23, 1890. (Received June 24.)

Mr. Mizner informs Mr. Blaine of the credited report in Guatemala of a successful revolution in Salvador on the night of the 22d instant, during which the President and others were assassinated.

Mr. Mizner to Mr. Blaine.

No. 114.]

LEGATION OF THE UNITED STATES,
Guatemala, June 25, 1890. (Received July 11.)

SIR: I have the honor to confirm my cable to you of the 23d instant.

I called upon the President and secretary for foreign affairs for this Republic yesterday, in order to obtain such facts as may have been secured in reference to the Salvadorian revolution, but they only knew that one General Ezeta, of the army of that Republic, had in some way been proclaimed, or proclaimed himself, Provisional President of Salvador.

That during the night of the 22d instant an attack had been made upon the presidential palace, and that the President and others had been killed; some accounts stating that the President had died from apoplexy during the fight in defense of his home. The wires being under the control of the revolutionary party, no further details have as yet come to hand.

President Barillas and Minister Sobral were quite plain and positive in their denunciation not to recognize it in any way; considering that Guatemala is under moral obligation to aid Salvador in maintaining a lawful organization, being, as she is, one of the three Republics which has adopted the union compact, and necessary to complete the majority of Central American States in that union.

They especially objected to a revolutionary president, such as General Ezeta now seems to be, becoming eligible to the presidency of the new Republic, and stated that they had moved 2,000 troops towards the frontier of Salvador and were well prepared to send large additional forces, if necessary. They also expressed the fear that the credit of the Central American States would be disastrously affected, and the pending loan of \$21,000,000, and construction of the proposed Northern railroad, would be interfered with, at least for the present.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 117.]

LEGATION OF THE UNITED STATES,
Guatemala, July 2, 1890. (Received July 17.)

SIR: Referring to my No. 114 of the 25th of last month, on the subject of the revolution in Salvador, I have the honor to inform you that as yet it is not positively known here whether the President of that Republic was killed or died from excitement during the night attack on his house.

There is much commotion in this city, and large bodies of troops are moving to the frontier of Salvador.

The President of Guatemala has issued a proclamation on the subject, a copy of which in Spanish, with translation into English, please find herewith as inclosure No. 1.

The situation is complicated; friends of the "Union" fearing that the use of force against Salvador to restore constitutional government will array the people of that Republic against it and doubtless enable them to secure aid from other countries even greater than the combined forces of Guatemala and Honduras, and to permit a military power to take part in the organization of the new Provisional Government, fixed for the 20th of next month, would not be in accord with the true principles of the compact.

On the 28th of last month the President of this Republic declared martial law, and suspended the personal guaranty clause of the constitution in the departments fronting on Salvador, and Señor Sobral informed me yesterday that his Government had an army of observation of 8,000 men in those departments well supplied with new arms, and that the treasury had \$2,500,000 for their support, adding that large reinforcements would go forward as required. He also stated that his Government would do all in its power to effect a peaceful solution of the question.

It is believed here that the new order of things, under General Ezeta, in Salvador is, at least to all appearances, supported by a considerable number of the people of that Republic, and that he is now from his own frontier confronting Guatemala with an equal force, so that the two armies are within a few days' march of each other, and a conflict imminent at any time.

Of actual important facts I will notify you by cable.

I have, etc.,

LANSING B. MIZNER.

[Inclosure in No. 117.—Translation.]

Manuel L. Barillas, constitutional President of the Republic, to his fellow citizens.

Citizens of Guatemala:

The deeds perpetrated in the capital of Salvador on the night of the 22d instant have profoundly impressed every circle of society in Guatemala. Fortunately there exists among our people such a deep sense of honor and justice that, no matter what may be our local differences and party preferences—our political "likes or dislikes"—all are of one accord in denouncing evil deeds and in repudiating all relations with those whose hands are stained with criminal acts.

Central America is at this moment under the stigma of a terrible reproach. The chief magistrate of Salvador, honored and respected by all, who had brought about a praiseworthy reform in the political history of his country; who had reestablished the public credit, encouraged progress and secured the strictest economy of adminis-

tration; who had assured the greatest liberty for all, even for those who might be inimical towards him; the worthy ruler who was the jealous guardian of republican institutions; the eminent loyal citizen who deserved so much at the hands of his countrymen—General Don Francisco Menéndez, whose private and civic virtues fill one of the brightest pages of Central American history, has been the victim of the most scandalous and shameful outrage.

The annals of all countries present us with instances in which a respectable number of citizens have been arrayed against the constitutional authorities in revolutionary movements.

Each of the opposing parties in all such struggles is contending for victory, regardless of the number of its enemies or the means of defense at its command.

This can be readily understood. But what shall we say or think when conspiracy, and more especially when treason on the part of those who have sworn to be faithful servants of the chief of the State, taking advantage of the very arms which have been intrusted to them and of the army placed under their orders, deals the death blow to their superior, and not only their superior, but the kind and constant friend who had overwhelmed them with favors. Depend upon it, such men, who can be guilty of so violent an outrage toward a trusting and confiding friend and benefactor, must not with impunity be permitted to ascend the steps of power, nor need they expect that there is any other government that may be aware of the facts and that has any regard for its own honor, which will tolerate such conduct or hold friendly relations with men who have stained their hands with the life-blood of him who should have been the first to claim their protection and their love.

Being looked upon as the interpreter of the wishes and sentiments of the citizens of this Republic, the Government of Guatemala hastened to display the emblems of mourning for the deceased chief, who not only maintained good and fraternal relations of friendship towards our country, but who, in addition to this, made every effort within his power to achieve the union and welfare of Central America; and not without reason has the executive power, with the support of public opinion and in full accord with the unanimous sentiment of the just and upright people of Honduras, so worthily represented by their leader General Bográn, ignored the legal existence of the present state of affairs in Salvador, being the outcome of an odious military stroke worthy only of the ignorance and brutality of the barbarous ages.

The fate of Salvador can not be indifferent to our people. She is a sister republic; she is bound to us by solemn stipulations of union; her people are among the most honored and laborious of all Central America; her destinies are in common with the destinies of all the Central American isthmus. With these antecedents, and being the bordering state on our eastern frontier, so that all events in Salvador, whether prosperous or adverse, have a reflex influence on Guatemala. It is the duty of my Government to preserve peace, to be vigilant and watchful over its own interest, and to endeavor to the utmost extent of its power and influence to prevent the existence of everything resembling anarchy and confusion in the neighboring republic, which would not only be an incalculable damage to the generous people of Salvador, but at the same time a dangerous menace for the whole of Central America.

For the foregoing reasons my Government has placed forces of inspection on the frontier; for the same reasons and in behalf of all, but more particularly in the interests of the people of Salvador, whose true interests and natural rights we shall ever respect, this Government is ready to act as the circumstances may require.

Citizens of Guatemala! To our upright and honorable conduct has been intrusted a worthy and generous mission—that of maintaining peace and harmony, that of restoring tranquility to a sister state—in a word, that of guarding the good name and credit of Central America. To you I appeal, as well as to all honest and honorable sons of that sister state, as well as to all good Central Americans at heart, to all I appeal for your support that you may aid me in the task of affording solid guarantees for the reestablishment of tranquility, of respect for the law, for the maintenance of peace upon the soil of our common country; that the work so well begun may be continued in a peaceful manner in the interests of progress and of our Central American union.

Fellow citizens, rest assured that my Government will not depart or turn aside from the path of duty marked out by the institutions and sacred interests of the country.

Your friend and fellow citizen,

M. L. BARILLAS,

GUATEMALA, CENTRAL AMERICA, June 27, 1890.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
El Paso, Tex., July 8, 1890. (Received July 10.)

Mr. Mizner reports that serious troubles between the Government of Guatemala and Salvadorian provisional leaders exist; that armies of 10,000 are prepared for battle in either state, and that the presence of a United States naval vessel on the Pacific coast of Central America is necessary for the protection of our interests in those states.

Mr. Mizner to Mr. Blaine.

No. 119.]

LEGATION OF THE UNITED STATES,
Guatemala, July 9, 1890. (Received July 24.)

SIR: I have the honor to confirm my cable dispatch of yesterday.

I deem the presence of a war vessel here important, from the fact that the troubles growing out of the revolution in Salvador seem to increase each day, and our interests in all these republics correspondingly endangered.

Our Navy Department is, of course, aware of the good roadsteads of San José, in this republic, and of Acajutla and La Libertad, in Salvador, and the fine harbor of the Gulf of Fonseca, on which fronts the territory of Salvador, Honduras, and Nicaragua, where coal can be easily supplied from Panama or elsewhere.

Referring to the matters stated in my No. 114, of June 25, and No. 117, of the 2d instant, I may add that on the 25th of last month the minister for foreign Relations of this Republic forwarded a circular letter, by telegraph, to the Governments of Honduras, Costa Rica, and Nicaragua declining to recognize the new state of affairs in Salvador, denouncing it in strong terms, and inviting the coöperation of those states for the purpose of reëstablishing order in Salvador, to which each of them promptly responded, promising all moral support possible in the premises; Nicaragua and Costa Rica each sending a minister plenipotentiary to Guatemala to aid in maintaining peace.

On the 26th of June Señor B. Molina Guirola sent a dispatch to the minister of foreign relations of this Republic, inclosing a copy of his appointment as minister in charge of all of the cabinet departments of Salvador, setting forth the organization of the new Government, requesting recognition, etc.

To which the minister here replied, in severe terms, that Guatemala would in no manner recognize the so-called Government of Salvador or answer further communications therefrom.

All of these documents being voluminous, and in the Spanish language, are retained in this legation, copies of which can be forwarded to you, if required.

On yesterday Señor Francisco E. Galindo called upon me, stating that on the 23d of last month he was directed by the so-called new Government of Salvador to come to Guatemala as minister, for the purpose of establishing cordial relations between the two countries; that the President of Guatemala refused to receive him, and directed that he (Galindo) should not leave this city. Later, he obtained an in-

terview with Señor Sobral, who refused to receive him officially, or to recognize the new order of things in Salvador. Señor Galindo also stated to me that he had made the proposition to Señor Sobral that General Ezeta, the new Provisional President of Salvador, should give way to Señor Ayala, the duly elected Vice President, next in lawful succession to the deceased President, General Menendez, but that his offer was declined.

The armed situation to-day may be stated as follows:

Salvador has, in and near Santa Ana, and within 10 or 15 miles of the Guatemalan line, about 14,000 men, well housed from the present rainy season.

Guatemala confronts this force with about an equal number of soldiers, better armed, but not so well sheltered.

The reënforcing power of Guatemala is greater than that of Salvador.

Honduras will, if necessary, assist Guatemala, attacking Salvador from the northeast with 3,000 or 4,000 men.

I do not think that Nicaragua or Costa Rica will interfere by force.

The most intelligent opinion here is that, in case of a conflict, the result will be very uncertain, and that, if the Salvadorians should be victorious on the frontier in a decisive battle, they will move upon and capture this city.

While I am not an alarmist, and have heard of an army marching up a hill and then marching down again, still, as a matter of precaution, the presence of a man-of-war in these waters would have a salutary effect on victors as well as vanquished.

I am informed by the German and English representatives that their Governments have no war vessels in this neighborhood.

I have, etc.,

LANSING B. MIZNER.

Mr. Adee to Mr. Mizner.

No. 128.]

DEPARTMENT OF STATE,
Washington, July 14, 1890.

SIR: Referring to your recent telegram relative to a possible early conflict between the troops of Salvador and Guatemala, I have to state that the Secretary of the Navy has ordered two ships of war to proceed to that quarter.

I am, etc.,

ALVEY A. ADEE.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, July 16, 1890. (Received July 19.)

Mr. Mizner reports that he is informed by the Government of Guatemala that a Pacific mail steamer which left San Francisco on the 3d instant, carrying ten thousand stand of small arms for Salvador, is expected to arrive at San José de Guatemala on the 17th instant.

Mr. Mizner says that the Guatemalan Government appeals to that

of the United States to cause the steamer to carry the arms beyond Salvadorian territory and land them in some port of a neutral State until consultation between the Guatemalan authorities and the ministers of Nicaragua and Costa Rica at Guatemala. He asks that he may be immediately instructed, and says that the steamer is detained until the 20th instant. He expresses the belief that, if there be no remedy, Guatemala may, for the purpose of claiming the arms as contraband, formally declare war, and he asks whether the arms in that case can be taken from an American vessel.

Mr. Mizner to Mr. Blaine.

No. 120.]

LEGATION OF THE UNITED STATES,
Guatemala, July 16, 1890. (Received August 5.)

SIR: I have the honor to confirm my telegram of this date.

The relations between Guatemala and Salvador are more serious than ever, the respective armies now confronting each other being about 14,000 on each side.

The early position taken by this Government, to the effect that the new state of affairs in Salvador could not be recognized, has so far prevented any advances in the way of compromise for the want of a party of the second part with which to enter into contract.

The special ministers of Nicaragua and Costa Rica were received this afternoon, but what will be the result of their consultation I can not anticipate.

Señor Sobral called at this legation yesterday, giving me the information and making the request set forth in telegram of to-day, his appeal being most earnest.

To my suggestion that the Pacific mail steamer *Colima* referred to was a neutral vessel belonging to a friendly nation, having left a neutral port before a declaration of war, he replied that practically a state of war had existed between the two countries—confronting each other with their respective armies—over two weeks ago, and that the arms on the steamer had been ordered by Salvador since the two Republics had assumed hostile attitudes towards each other, and that, if the United States Government could not do something to prevent the delivery of these arms to the enemy, his Government might be compelled formally to declare war in time to treat the arms on our ship as contraband and seize them accordingly, especially as they would be within the maritime jurisdiction of Guatemala.

I reminded Señor Sobral of the position of absolute neutrality which the United States occupied between these Republics, and that I was accredited as envoy to each of them; but, if anything could be done in the interest of peace and good will consistent with that neutrality and the laws of nations, my Government would cheerfully contribute in that direction.

Accordingly, arrangements have been made for a delay of the steamer until the 20th instant, with a view of receiving your instructions in the mean time.

The cable by way of La Libertad in Salvador and Galveston is closed as to this Republic, and I am compelled to telegraph via Mexico, having, however, doubts as to its prompt delivery.

My telegram of the 8th instant, suggesting a war ship in these waters for the protection of American interests, which went by that line, has doubtless failed to reach you.

I have, etc.,

LANSING B. MIZNER.

Mr. Adee to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 19, 1890.

Mr. Adee acknowledges receipt of Mr. Mizner's telegrams of the 16th and 8th instant, the former from Mexico, the latter from El Paso; asks him where he is, and advises him that the Department's answer to his last telegram was sent by way of Mexico.

Mr. Adee to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 19, 1890.

Mr. Adee informs Mr. Mizner that the Department has received advices of the detention by the Guatemalan Government of the *Colima*, a steamship of the Pacific Mail Company, which sailed from San Francisco for Panama on the 3d of July, carrying some arms for a port in Salvador, and that the arms were seized. He adds that war was not then in existence between Salvador and Guatemala, nor is it known to exist now; that the announcements by the two Governments of a state of observation contradict the existence of war; that no international right on Guatemala's part to seize the ship and arms is perceived by the Department; that Guatemala detains the arms at her own risk; that the release of the ship must not be delayed; that this Government dissents from the seizures and from the suggestion in Mr. Mizner's telegram received to-day; that the United States would be glad in any proper way to aid impartially to establish friendly relations among the States of Central America, but can not countenance injuries committed by them against our citizens and their property, nor be a party to any conference concerning the rights of Salvador in which Salvador does not participate. Answering Mr. Mizner's suggestion that war may be declared by Guatemala simply for the purpose of seizing the arms, Mr. Adee informs Mr. Mizner that, in the opinion of this Government, prior unlawful acts can not be validated by declarations of such a character.

Mr. Blaine to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 20, 1890.

Mr. Blaine instructs Mr. Mizner promptly to demand of the Guatemalan Government the instant surrender of the *Colima*, with all her cargo, that Government having no right whatever to detain her, as she had been guilty of no offense against any treaty existing or against the law of nations.

Mr. Adee to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 21, 1890.

Mr. Adee informs Mr. Mizner of the report by the president of the Pacific Mail Company of the seizure by Guatemala of the Company's steam launch used at San José for the transfer of passengers, and adds that sufficient instructions have been already sent to Mr. Mizner.

Mr. Adee to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 21, 1890.

Mr. Adee informs Mr. Mizner that the Pacific Mail Company has been advised that the Guatemalan Government has confiscated the arms carried by the *Colima*, and instructs him to pretest and demand restoration. Asks him if he has received Department's telegrams of 19th and 20th instant.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, July 22, 1890. (Received July 26.)

Mr. Mizner reports the great apprehension and danger existing in the city of Guatemala, the rumored defeat of the Guatemalan army and of the nonarrival of any answer to his communications for two weeks. He adds that Guatemala, Nicaragua, and Costa Rica—Honduras consenting by telegraph—have signed a treaty securing constitutional government in Salvador, and that they request the good offices and moral support of the United States. He asks that instructions be sent him by way of El Paso, Tex., and suggests the necessity for a United States naval vessel in Central American waters.

Mr. Mizner to Mr. Blaine.

No. 124.]

LEGATION OF THE UNITED STATES,
Guatemala, July 23, 1890. (Received August 8.)

SIR: I have the honor to confirm my telegram of yesterday. In my dispatches and cables of last month I have attempted to keep you informed as to the situation of affairs between Guatemala and Salvador, and I deem it my duty to continue reporting to you the very serious state of affairs as they now exist.

The respective armies have met on Guatemalan territory, the advantage being with the troops of Salvador; much loss of life, and the Guatemalan army falling back in the direction of this capital.

Martial law was declared throughout this Republic on the 21st instant, and on the same day a decree was issued requiring all persons between the ages of eighteen and fifty, not exempt by law, to present themselves for military duty, under penalty of being adjudged traitors and punished accordingly.

Señor Sobral informed me last night that some 8,000 men had been mustered in and about this city and 10,000 more were coming from the adjacent towns, and that, in case of necessity, to defend the State his government could rely upon the services of 50,000 Indians.

These figures should be taken with some grains of allowance.

It is, however, true that the greatest alarm prevails here; valuables are being deposited in the legations and protection asked of foreign flags.

The export duty on coffee has been advanced to \$2 on the 100 pounds, and duties on imports raised.

A copy of the treaty referred to in above telegram was not furnished me till late last night, and, consequently, I have been unable to translate it into English in time for this mail, but send it in Spanish, inclosed herewith, under rule No. 77; the translation will be made, if required.

As to the guaranty asserted in Article IV of the treaty, I will be most guarded in my action.

I still deem the presence of a ship of war most important to protect the large American interests here.

Since writing the above, Guatemala has this day formally declared a state of war as existing against Salvador by reason of the invasion of Guatemalan territory by the troops of that Republic.

I have, etc.,

LANSING B. MIZNER.

[Inclosure in No. 124.—Translation.]

EXECUTIVE ADMINISTRATION,
OFFICE OF FOREIGN RELATIONS.

Protocol of the convention ratified between the ministers of Costa Rica, Guatemala, and Nicaragua on the question of the restoration of order and tranquility in Salvador.

Jorge Prado, secretary of the ministry of foreign relations, certifies in due form that on the 9th instant the following protocol was signed in this office:

Protocol of a convention ratified between the ministers of Costa Rica, Guatemala, and Nicaragua on the question of the restoration of order and tranquility in Salvador.

Having agreed to convene in the office of foreign relations of Guatemala, the first conference opened at 1 o'clock p. m., July 18, 1890.

The minister of Costa Rica announced the object for which their respective governments had delegated them to be in response to the invitation of Guatemala to con-

tribute their joint influence in accord with the other Governments of Central America toward the reestablishment of order and tranquility in Salvador; the minister of Guatemala was also present to present to the legations the views of his Government upon this question. The minister of foreign relations hoped the legations of Costa Rica and Nicaragua would offer such a plan as, in their view, was best fitted to promote the object of their mission; for, Guatemala being armed and her troops now on the frontier confronting those of Salvador, it did not seem fitting that proposals for peace should be offered by her, first, because such proposals might be regarded as dictated by fear of encountering the forces of the neighboring state which were threatening her, and second, because any proposition looking to the restoration of order and tranquility in Salvador emanating from Guatemala might be interpreted as imposed or intimidated by the latter republic, a procedure which was foreign to her true purposes. To this the minister from Nicaragua responded that, since the Government of Guatemala did not see fit to offer the bases of an arrangement, he had no hesitation in explaining the views of the legations in respect to this matter—views, the fundamental basis of which was the reestablishment of constitutional order in Salvador, the first designado, Dr. Don Rafael Ayala, being invested with the chief power.

This basis being promptly accepted by the minister of Guatemala, the minister of Nicaragua asked that the minister of Guatemala would be pleased to explain the methods which his Government deemed best fitted to promote the object in view. The minister of Guatemala responded that for the reasons already mentioned, and because of his desire to defer to the delegates from Costa Rica and Nicaragua also in the interests of the object of his mission, he asked to be excused from making the proposed exposition; he thought it more fitting that the legations should offer a plan for the reestablishment of constitutional order in Salvador. The proposition of the minister of Guatemala being accepted, the ministers of Costa Rica and Nicaragua agreed to formulate the arrangement in question, which was accordingly embodied in a memorandum, as follows:

First. Recognition of the legal government of Salvador upon the establishment thereof in accordance with the constitution which was in operation prior to the events of June 22 of the past year.

Second. Disarmament of the forces of Guatemala, Honduras, and Salvador upon the cessation of the government of Ezeta and the restoration of the constitutional government, the armies to resume their normal condition in a time of peace.

Third. Withdrawal of General Ezeta, with guaranties for the safety of his life and property and permission to quit Salvador.

Fourth. Complete and unconditional amnesty for all those who have taken part in the events of the revolution in Salvador.

Fifth. If it should be necessary for the contracting republics to lend assistance in order to secure the complete pacification of Salvador, and if it should be requested by the legitimate government to be recognized agreeably to the stipulations, it shall be done in such manner and form as may be found convenient, subject always to the preceding stipulations, the fulfillment of which is to be guaranteed by the diplomatic corps resident at Guatemala.

Sixth. These stipulations shall be submitted to the Government of Honduras for its acceptance, if approved.

The above bases having been approved by the minister of foreign relations of Guatemala, the latter proposed to the legations to insert in the said arrangement the following article:

It is resolved that, peace being restored, the Governments here represented shall continue their pacific measures having in view the union of Central America, agreeably to the compact entered into at San Salvador the 15th of October, 1889.

The ministers of Costa Rica and Nicaragua accepted the latter resolution, and the object of the conference being fulfilled it was declared terminated.

Guatemala, July 19, 1890.

JOSÉ MA. CASTRO.
E. MARTINEZ SOBRAL.
G. LARIOS.

Office of Foreign Relations, Guatemala, July 21, 1890.

JORGE PRADO.

Enrique Martinez Sobral, minister of foreign relations of Guatemala, accredited with full powers by the President of that Republic, and José Maria Castro and Gilberto Larios, envoys extraordinary and ministers plenipotentiary of Costa Rica and Nicaragua, respectively, after exhibiting the powers accrediting them in their diplomatic character, and having convened in due form, pursuant to the instructions of their respective Governments, and conferred upon the object for which they were invited to convene by Guatemala, *i. e.*, the contributing of their influence toward the

restoration of tranquillity and constitutional order in Salvador, they framed the following diplomatic compact:

ARTICLE 1.

The high contracting parties pledge themselves to recognize the legal government of Salvador as soon as the same shall be established in conformity with the constitution which was in operation prior to the events of the 22d of June of the past year.

ARTICLE 2.

They likewise stipulate the disarmament of the forces of Guatemala, Honduras, and Salvador, upon the cessation of the *de facto* government of General Ezeta and the restoration of the constitutional government and the reducing of them to their normal condition in a time of peace.

ARTICLE 3.

The withdrawal of General Ezeta from the Government of Salvador being indispensable to the reestablishment of constitutional order, the high contracting parties agree to demand said withdrawal, offering guaranties for the safety of his life and property and permitting him to quit Salvador.

ARTICLE 4.

If it should be necessary for the complete pacification of Salvador, and if it be requested by the legitimate government to be recognized in accordance with the stipulations, the contracting republic shall lend their aid thereto in such manner and form as shall be found convenient, subject always to the present stipulations, the fulfillment of which shall be guaranteed by the diplomatic corps resident at Guatemala.

ARTICLE 5.

The high contracting parties agree to guaranty that immediately upon the restoration of constitutional order and tranquillity in Salvador, a complete and unconditional amnesty shall be declared for all who have taken part in the events of the revolution.

ARTICLE 6.

It is agreed that, as soon as peace shall be securely reestablished, the Governments here represented shall continue their pacific measures with a view to promote the union of Central America according to the compact formed in San Salvador October 15, 1889.

ARTICLE 7.

These stipulations shall be submitted to the Government of Honduras for its acceptance, if approved.

In testimony of the above stipulations, this convention is signed in the city of Guatemala the nineteenth day of July, one thousand eight hundred and ninety.

Telegraphic information having been received from the minister of foreign relations of the republic of Honduras that his Government adheres in every particular to the foregoing compact, a certified and authentic copy of said telegram is hereto annexed, showing the acceptance by Honduras of the seven articles contained in the diplomatic convention signed at Guatemala July 19, 1890.

Guatemala, July 21, 1890.

[L. S.]

[L. S.]

[L. S.]

E. MARTINEZ SOBRAL,
Minister of Guatemala.
JOSE MA. CASTRO,
Minister of Costa Rica.
GILBERTO LARIOS,
Minister of Nicaragua.

[Telegram.]

TEGUCIGALPA, July 21, 1890.

To the minister of foreign relations :

I have the honor to acknowledge receipt of your telegram of yesterday's date, with copy of the compact signed by you on same date with the ministers of Costa Rica and Nicaragua, of which the seven articles are as follows :

It was agreed to submit the foregoing stipulations for the consideration of my Government and for its acceptance if approved.

I have to say in response that the President, informed as to the terms of the said compact, adheres to all of its stipulations, believing them conducive to the reestablishment of order, which has been subverted in the Republic of Salvador, and to the good of Central America.

With sentiments of distinguished consideration, your obedient servant,
JERONIMO ZELAYA.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 25, 1890.

Mr. Wharton advises Mr. Mizner that the Department has sent him five telegraphic instructions, one of which was sent to Mr. Ryan to be repeated to him at Guatemala.

Mr. Blaine to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1890.

Mr. Blaine informs Mr. Mizner that the Department's instructions to him appear to have been intercepted, urgent protests against the *Colima* seizure remaining unacknowledged. He adds that this is the seventh telegraphic message sent to the legation at Guatemala City since the 19th instant, and instructs him to demand an immediate investigation and inviolability of his official correspondence; remarking the similarity between the present situation and that of 1885, when Mr. Hall's telegraphic communications were cut.

Mr. Blaine to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1890.

Mr. Blaine instructs Mr. Mizner immediately to tender the good offices of this Government for the friendly adjustment of all the differences among the states of Central America, and adds that our action is prompted by impartial and earnest friendship, and that, while we desire not to exercise any constraint, it is our wish to make an end of a situation not only destructive of the peace of our neighbors, but of injury to the common interests of all.

Mr. Mizner to Mr. Blaine.

No. 125.]

LEGATION OF THE UNITED STATES,
Guatemala, July 26, 1890. (Received August 14.)

SIR: Referring to the closing paragraph of my No. 124, of the 23d instant, I now have the honor to inclose to you herewith a printed copy of decree No. 436, issued by the President of Guatemala, on the 21st day of July, 1890, in which Guatemala, in the language of the decree, "accepts the unjust war to which she has been driven by the government *de facto* established in Salvador," etc.

To this copy I append a translation of the same into the English language, making it a part of the above inclosure.

I have, etc.,

LANSING B. MIZNER.

[Inclosure in No. 125.—Translation.]

Decree No. 436.

Mannel L. Barillas, General of Division, and Constitutional President of the Republic of Guatemala, whereas:

That, on account of the late events which have taken place in Salvador, the Government of Guatemala had to place a part of her army on the frontier for the sole purpose of preserving the peace and guarding the public order, threatened by those events; that, notwithstanding the protests of peace made by Guatemala and her having exhausted all possible means to secure it, the forces of the neighboring state have invaded the national territory, and in different ways have performed unjust provocations against the people of Guatemala; and, as it is the duty of the supreme authority to cause the integrity of the national territory and the sacred rights of the Republic to be respected, it being obligatory upon the executive power to defend the independence and honor of the nation and the inviolability of her soil: Therefore, in council of ministers, it is decreed:

ARTICLE 1. Guatemala accepts the unjust war to which she has been driven by the Government *de facto* established in Salvador, and declines all responsibility of the dire consequences that may be occasioned to persons and property on the part of those who have promoted the fratricidal struggle which now exists between the two countries.

ART. 2. The minister of war is charged with the execution of this decree, and to take the most energetic and necessary means for the defense of the Republic and to carry such military as a state of war may require.

Done at the National Palace of Guatemala on the 21st day of July, 1890.

M. L. BARILLAS.

The Secretary of State and of the Department of War.

C. MENDIZÁBAL.

Mr. Mizner to Mr. Blaine.

No. 126.]

LEGATION OF THE UNITED STATES,
Guatemala, July 28, 1890. (Received August 14.)

SIR: I have the honor to acknowledge the receipt of your instructions by telegram of July 19, forwarded by my colleague in Mexico on the 23d instant.

The arms were seized in violation of a positive agreement made by me on the 18th instant, in accordance with the terms of the contract between the Pacific Mail Steamship Company and Guatemala, with Señor Sobral, to the effect that they should be stored with the United States consular agent in San José or sent to a neutral port.

The seizure took place while the arms were being transferred from the ship *Colima*, going south, to the ship *City of Sidney*, going north.

I defer making a full report of this case until I receive a reply from Señor Sobral to my note asking an explanation.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, July 29, 1890.

Through the United States legation in Mexico Mr. Mizner reports the interruption of diplomatic correspondence by the Provisional Government of Salvador, and says that he will press his demand for an explanation thereof. He advises Mr. Blaine that the armies are resting after many engagements, and that it has been announced by the President of Guatemala that all the expenses of the war shall be paid by Salvador.

Mr. Mizner to Mr. Blaine.

No. 129.]

LEGATION OF THE UNITED STATES,
Guatemala, July 31, 1890. (Received August 14.)

SIR: I have the honor to acknowledge the receipt of your telegraphic instructions, by way of Mexico, bearing date July 26.

On the morning of the 29th instant I received your telegram of the 27th, dated at Mexico July 28.

On the 26th instant I addressed a letter to the United States consular agent at La Libertad, Salvador, directing him to request the agents of the cable company at that port to deliver to him four messages which I was informed had been sent to me from Washington, and to forward the same by first steamer to this legation.

Yesterday afternoon I received by mail the copies of your telegraphic instructions of the 21st and 26th by cable, via Galveston, two in number.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 130.]

LEGATION OF THE UNITED STATES,
Guatemala, July 31, 1890. (Received August 14.)

SIR: The past week has been such a busy one that I will be able to give you only a very brief outline of events connected with the war between Guatemala and Salvador. The regular mail, via Livingston, which should have gone yesterday, has been detained by this Government to accommodate the diplomatic corps until 6 o'clock this afternoon.

As I telegraphed you, through Minister Ryan, on the 29th instant, the two armies are resting from their recent engagements. These were

at Coco, Chingo, Contepeque, and Atescatempa—the three last named being on Guatemalan soil—the general result of all of which was to the advantage of Salvador, notwithstanding the troops of that state have fallen back to their own territory and are fortifying their cities, towns, and passes, and it is hoped that no further battles will be fought until the voice of the peacemaker can be heard.

Having reason to believe that the time had arrived for a tender of good offices, I called on President Barillas last Saturday evening. After distinctly stating to him the impartial position of the Government of the United States towards all the republics of Central America, and our sincere desire that peace and harmony should prevail among them, I tendered the good offices of my Government in the direction of peace in any way consistent with the neutral and friendly feeling entertained by us for all the parties to the unfortunate conflict.

The President received my suggestions most kindly, thanking my Government for its interest, but declined any other terms than that Salvador should surrender to him her last gun and pay all the expenses of the war, stating that while he had been willing to negotiate for a settlement at the time of the signing of the treaty of the 19th instant, a copy of which I sent you in my No. 124 of July 23, he was not willing to do so now that Salvador had invaded his territory, killed a number of his people, and dispersed several thousands of his soldiers; but, in concluding the conversation, the President intimated that the time might come when he would be pleased to accept our kind offer.

The diplomatic corps here has been most active in its efforts to bring about a restoration of peace. Meetings have been held at this legation and at those of France and Spain, attended by the representatives of all the nations resident in this city, for the interchange of ideas and for information, and I think the effect has been good. Of course, our joint action as between ourselves is understood to be advisory only.

The main difficulty in rendering any effective service in these troubles has been the refusal of this Government to in any manner recognize the existing state of affairs in Salvador, notwithstanding its declaration of war certainly does so, to the extent at least of admitting the existence of a *de facto* Government in the latter state; but after many conferences of the corps, including the ministers from Nicaragua and Costa Rica occasionally, and suggestions from the minister of foreign relations of this republic, who spoke by authority of the President, a letter was addressed by the ministers of Nicaragua and Costa Rica to each of the other members of the corps, requesting our good offices. To this letter a joint reply was made, wherein we expressed our willingness to assist in the restoration of peace in any manner consistent with our friendly and impartial relations to all the republics of Central America; which letter and reply were telegraphed last evening by the ministers of Nicaragua and Costa Rica to General Ezeta, the leader of the Provisional Government of Salvador, with the request that he consider them and make such answer as he might deem proper.

In this way it is hoped that negotiations may be opened between the contending powers with all due regard to the honor of each.

All these documents and several others necessary to a complete history of the situation are in the Spanish language, quite lengthy, translations of which into English I shall not have time to make so as to inclose them by this mail, but will do so at the earliest opportunity and forward them to you.

I have the honor to be, Sir, your obedient servant,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 131.]

LEGATION OF THE UNITED STATES,
Gautemala, July 31, 1890. (Received August 14.)

SIR: On the morning of the 28th instant I received telegrams from Lieutenant-Commander George C. Reiter, commanding the war ship *Ranger*, and Lieutenant-Commander Charles H. Stockton, commanding the war ship *Thetes*, that their vessels had arrived at the port of San José, in this republic.

In reply I invited these officers to visit this legation, and sent the secretary of legation on the same afternoon to receive them at that port.

They responded by coming to the capital on the 29th instant, with members of their staff, were received by me, and on the following day were presented formally to the President of Gautemala and his cabinet ministers.

The moral effect of the visit of these officers upon the Government and citizens generally seems to have been most valuable and to have elicited expressions of cordial approval.

They returned to their ships this morning with the intention of remaining at the port for such length of time as circumstances may demand their presence.

I have, etc.,

LANSING B. MIZNER.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 31, 1890.

Mr. Wharton instructs Mr. Ryan, at the City of Mexico, to telegraph Mr. Mizner that the Department directs him to proceed to San José de Guatemala immediately, there to await further instructions, after providing for communication with the naval vessels of the United States at that port and arranging prompt telegraphic facilities with the legation at Guatemala City, and thence with Mr. Ryan, at the City of Mexico. Also to answer this instruction through the legation in Mexico promptly.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 31, 1890.

Mr. Wharton requests the office of the Central and South American Telegraph Company, at Galveston, Tex., to telegraph a message in cipher to Libertad, with directions to forward it by water, at the first opportunity, to the captain of the *Ranger* for Minister Mizner, at San José de Guatemala, to the following effect: Mr. Mizner is directed by

Mr. Blaine, after opening communication, to secure its continuance, by the *Ranger* or *Thetis*, via Acajutla or Libertad, and maintaining it with Guatemala City; to use his good offices with the Government there, as well as with the Government of Salvador, for the restoration of peace; but to restrict himself to that duty solely, offering to advise in an urgent but friendly and impartial sense, and not to dictate. Mr. Wharton adds that Mr. Mizner should make known to either Government his insistence on the inviolability and privileged transmission of his correspondence with the legation in Mexico and the Department at Washington.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, August 1, 1890.

Minister Mizner telegraphs from Menton to Minister Ryan, to be communicated to the Secretary of State, that he is in direct communication with San José, both by telegraph and railroad, and can communicate with naval officers there, the distance being about 70 miles. Telegraph lines do not pass through San José, except the branch from Menton, which latter place is headquarters.

Mr. Wharton to Mr. Mizner.

No. 142.]

DEPARTMENT OF STATE,
Washington, August 2, 1890.

SIR: The Department has received your No. 117, of the 2d ultimo, in relation to the Central American disturbances. The proclamation of President Barillas, of 27th June last, which you inclose, has been read with the interest which naturally attaches to so important a document.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
August 4, 1890.

Mr. Wharton informs Mr. Ryan of the receipt of Mr. Mizner's telegram of the 1st instant, through the legation in Mexico, and instructs him to telegraph Mr. Mizner that the Department considers it necessary for him to go to San José and place himself in communication with the Government of Salvador through the United States naval vessels at that port, as well as with the Guatemalan Government, in order that he may offer his good offices to both countries.

Mr. Mizner to Mr. Blaine.

No. 132.]

LEGATION OF THE UNITED STATES,
Guatemala, August 4, 1890. (Received August 21.)

SIR: As a part of the history of the overture for peace between Salvador and Guatemala on the part of the representatives from Costa Rica and Nicaragua, I now have the honor to inclose to you herewith a copy of the address of Señor José Maria Castro, minister from Costa Rica, accredited on a special mission of peace to the republics of Guatemala and Salvador, made to the President of Guatemala on the 16th ultimo, together with copy of that high official's reply to the same, and translation into English of both.

I have, etc.,

LANSING B. MIZNER.

[Inclosure 1 in No. 132.—Translation.]

Mr. Castro to President Barillas.

[Address presented to His Excellency the President of the republic of Guatemala by the minister plenipotentiary and envoy extraordinary from Costa Rica, upon the occasion of his official reception before the Government of Guatemala. July 16, 1890.]

MOST EXCELLENT SIR: The President of Costa Rica, actuated by sentiments of fraternity towards our common country of Central America, has with much pleasure offered to Your Excellency his friendly services in order to see if it might be possible to attain the reestablishment of constitutional law and order in the republic of Salvador, and with this object in view has accredited to the other republics of Central America the legation, of which I have the honor to be the chief.

The fact that forces of this republic, as well as those of Salvador, are now occupying their respective frontiers at the risk of becoming involved in a fratricidal struggle, fatal to the interests of both parties, as well as to the whole of Central America, made me determine to come first before the Government of Your Excellency, present my credentials, and set forth the urgency of the reasons that the Government of Costa Rica has for proposing, with lively solicitude, arrangements for the preservation of peace which should always exist between these sister nations.

And the truth is, most excellent Sir, that it is difficult to set forth or outline the actual present situation, for it is not evident to the eyes of foreign governments, nor is it well understood in Central America, what are those grave reasons which would justify an open disastrous rupture; and yet, on account of the war-like attitude presented by the republics of Guatemala, Honduras, and Salvador, this open rupture would seem imminent, an event that would cover them with opprobrium in the eyes of the civilized world, were it for no other reason than that of occurring between states that only yesterday signed a solemn treaty of union.

My Government has been really surprised to see the dizzying rapidity with which preparations for war are being made at the very moment when all possibility of warfare in Central America seemed further off than ever before, not only on account of the strong desire for union, but more especially in view of the astonishing advancement of these countries, notably that of Guatemala, under the more favorable conditions of a few years of universal peace; and, moreover, in view of the circumstance that the Government of Your Excellency, as well as that of Honduras, gave so eloquent an expression to their desire for the welfare and prosperity of Salvador by directing to those of Costa Rica and Nicaragua an exhortation to endeavor to restore peace and legitimate government, which a local disturbance had threatened to interrupt in that neighboring republic.

My Government has hastened to respond to this exhortation in the firm conviction that only by a religious respect for republican institutions and by the establishment of absolute confidence in the permanence of the rights and liberties of the people can the progress and advancement of a State be assured, and that in the natural course of its development or unfoldment will be realized the union of these republics and the regeneration of the fatherland of Central America. War, on the contrary, places this ideal farther and farther off; and only with ineffable grief could my Government view this abortive outbreak of antipatriotic spirits.

I am sure that Your Excellency will be the first in the efforts that are being made to avoid a conflict, because Your Excellency and your illustrious Government will never ignore the reasons that militate in favor of peace, nor renounce the glory of having

preserved it. Oh! you certainly never can renounce so great a glory! War scatters among the nations the seeds of animosity and hatred—the germs, almost always, of future cruel conflicts—and never fails to create separation and antagonism. War consumes the accumulated resources destined for the unfoldment of the public wealth and the growth of the internal well-being of the nations; and that which is still more lamentable than all this, it awakes savage passions, sensuality, selfishness, and brute force, and these take the place of disinterested patriotism and universal justice.

But aside from these considerations, most excellent Sir, the evils of war become much more aggravated, as far as Central America is concerned, on account of special circumstances. The absence of motives that would justify it on the part of Guatemala would make the integration of Central America by peaceful means at a later period much more difficult—that union which has been the constant and earnest desire of Your Excellency ever since the day of inauguration of your Government and with it the establishment of order and peace.

You, Sir, assumed the reins of power upon the death of General Don Justo Rufino Barrios. Your appearance at the summit of power was the signal of peace; it was the proclamation of peace to the soil that you loved. Such a precedent leads my Government to hope that the mission entrusted to me may have a happy outcome, and to believe in the sincerity of those notable words that appear in the columns of your official daily: “Guatemala no quiere la Guerra—Guatemala does not desire war.” Those words, which I applaud with enthusiasm, stand as a rebuke and a protest against those who attribute to your honorable Government sinister designs upon the autonomy of the republic of Salvador. Those words of “peace,” which went forth from your lips on the day of your inauguration, are again repeated by you today under circumstances the most solemn and important, and those words are the greatest glory of your political figure. For those words I congratulate you and the people of Guatemala in the name of the Government and people of Costa Rica.

[Inclosure 2 in No. 132—Translation.]

President Barillas to Mr. Castro.

[Reply of President Barillas to the foregoing address.]

MR. MINISTER: I receive with benevolence the autograph letter by which you are accredited in the capacity of envoy extraordinary and minister plenipotentiary from the republic of Costa Rica before the Government of Guatemala, and I cordially congratulate you upon the honor which, with just reason, the chief of that sister section had bestowed upon the distinguished citizen, who, having rendered important services to his country, has received from his Government the mission of advocating the tranquility of Salvador, and for the peace of nations united by fraternal bonds.

The ample and well digested address of Your Excellency, relative to the peace and the beneficial results of general tranquility for all Central America, finds, on the part of my Government, the most perfect reciprocity; for, indeed, Mr. Minister, no enlightened Government can desire war in adverse exchange for the benefits of peace. Under the benign influences of order and regularity of administration have accrued to Central America the advantages of agriculture, commerce, and industry to such an extent that the production of our five republics together stands on an equal footing with the most advanced in all Latin America.

Thanks to the liberal and progressive institutions of Guatemala, there have been effected in this country many improvements; and thanks to her sincerely fraternal policy, prosperous days have been reached for the union of Central America. My administration, indeed, struggling against serious difficulties, has aimed to succeed in establishing a frank system of progress, of liberty in every sense, and of intimate and cordial union, free from all preponderance of any kind among the states of Central America.

The late events in Salvador, already condemned by all enlightened people, place Guatemala in an anomalous position; for it is well known that whatever happens in that neighboring state, whether prosperous or adverse, has a powerful reflex influence, direct or indirect, upon the situation in this republic, as well as in each of the other Central American states; for, as history demonstrates, an irregular government in that republic has, as an immediate consequence, a pernicious influence, not only upon Guatemala, but upon every other section of the ancient fatherland.

The situation is for us all the more difficult in the present circumstances, inasmuch as our republic is, both by population and constitution of elements, the elder sister of the five Central American states; and, in her character as such, she can not accept

the responsibility of having viewed with indifference such actions as those that have lately taken place in Salvador, which she is obliged to regard as an insult, not only to us, but also in the face of all civilized nations.

Your Excellency must not, therefore, be surprised at the gathering of forces raised for the maintenance of order; and much less will you be surprised when you reflect that from all these warlike preparations the peace and tranquillity, not only of Guatemala, but of all Central America, will result. This action on our part, prompted alike by propriety and the general security of the country, must not be regarded as opprobrium and worthy of censure; it is, on the contrary, the evidence of foresight for the prevention of evils which, with an incautious and too confident line of conduct, might confront us—not only us who live on this side of the Rio Paz, but all who dwell on Central American soil. And it is my firm conviction and belief, Mr. Minister, that, when the civilized world shall see that we do not hesitate to make sacrifices in order to extricate ourselves from the evil influence of the men who in Salvador have possessed themselves of power, it will justify the dignified and decorous attitude which, on behalf of all in this unfortunate emergency, has been assumed by the elder sister of the republics of Central America.

War is indeed an abortion of anti-patriotic spirits. All cherish and ought to desire peace. At the same time, unfortunately, it often happens that peace can be attained only by means of war, grievous and painful though it be. Guatemala has no desire for such an extreme measure. She has, therefore, limited her operations to the inspection of her frontiers, and, foreseeing worse disasters, has exhorted her sisters to unite with her in preventing the evils that might be produced by the grave disturbance that has taken place in Salvador. Nobody can desire an armed conflict. Nor do we profess or pretend to do so, because to it are opposed humanitarian sentiments and the interests of commerce, industry, and our flourishing agriculture. But shall we evade the responsibility and decline to fight should it become necessary?

It is to be deeply regretted that in these solemn moments a conflict with Salvador should have arisen. Guatemala has made unparalleled efforts in favor of the union of Central America. My Government has taken pains to aid in the realization of this ideal. It has not hesitated at any sacrifice that might be necessary in order to attain it. Yet, at the very moment in which we were about to put in force the "treaty of the union," the old monster, the revolutionary hydra, makes his appearance and puts obstacles in the way of its completion! This, Señor Minister, is one of the greatest evils that could have resulted from the scandalous deeds of the 22d of June; but, notwithstanding all this, I can assure you that my Government, faithful to its policy, will spare no effort in order that the labors and efforts undertaken with this object in view shall bear fruit, and yield all that has been expected or could be hoped for.

Mr. Minister, my Government, upon assuming power, pronounced the word "peace." That sacred word is still its motto and its landmark. "Peace" we still continue to pronounce, because it is the prime necessity of all peoples. However, peace must be decorous and dignified. Nay, more; in the circumstances that now exist it must be permanent and beneficent towards all Central America.

Mr. Minister, allow me again to congratulate you on the sound and wholesome propositions that you have uttered and set forth, and I hope that a happy outcome may crown the noble efforts that you are making in fulfillment of your mission.

Mr. Mizner to Mr. Blaine.

No. 133.]

LEGATION OF THE UNITED STATES,
Guatemala, August 4, 1890. (Received August 21.)

SIR: Referring to my dispatches numbered 120 and 126, of the 16th and 28th of last month, on the subject of the seizure of arms from the Pacific mail steamer *Colima* by this Government, I have the honor to report that, in addition to the earnest verbal appeal made to me by Señor Sobral on the 15th of July in reference to those arms, he subsequently, and on the same day, wrote to me a note, of which inclosure No. 1 is a copy; hence my telegram to you of the 16th of July. On the next day I met Señor Sobral at his office in the presence of the gentlemen mentioned in my note of the 27th ultimo, including the agent of the Pacific Mail Company, when the minister stated that his atten-

tion had for the first time been called to the 17th article of the contract between his Government and that Company, reading as follows :

The company binds itself not to permit troops or munitions of war to be carried on board of its steamers from any of the ports of call to the ports of, or adjacent to, Guatemala, if there be reason to believe that these materials may be used against Guatemala, or that war or pillage is intended.

This simplified the matter, and it was promptly agreed between us that the arms in question should be stored in San José, to my care or that of the United States consular agent there, or sent to some neutral port.

On the 18th of July the arms were forcibly seized by this Government as the Pacific Mail Company was in the act of transferring them from the steamer *Colima*, bound south and in the direction of Salvador, to the steamer *City of Sydney*, bound north and in the opposite direction from Salvador, for the avowed purpose of depositing them in a neutral port, according to the request of Señor Sobral, as expressed in inclosure No. 1.

The arms were immediately sent to this city by rail and placed in the hands of the military and police force, being conspicuously paraded through the streets to the irritation of Americans and the unfavorable comments of others.

On the 24th of July I called on Señor Sobral, complaining of the seizure, and understood him to say that the matter would be promptly arranged and to my satisfaction.

Not hearing from him as I expected, on the 27th of July I addressed him a note, of which inclosure No. 2 is a copy.

Señor Sobral called on Tuesday, the 29th of July, at this legation, again giving me to understand that, as soon as a report could be had from the commander of the port on the subject, all would be properly settled.

On the 1st instant I received a note from that minister, a copy of which is inclosed herewith, numbered 3, in which he makes the report of the commander of the port the subject of his communication without comment, the courtesy of which under all the circumstances I am inclined to question.

To this last communication I replied on the 2d instant, as per copy of inclosure herewith, numbered 4.

I have, etc.,

LANSING B. MIZNER.

[Inclosure 1 in No. 133.—Translation.]

Mr. Sobral to Mr. Mizner.

NATIONAL PALACE, Guatemala, July 15, 1890.

EXCELLENT SIR : I have the honor to refer to the interview had with Your Excellency this day, and to request you, if you see proper, to dictate the dispatch which in that interview you were pleased to offer me relative to a detention of the steamer *Colima* in the port of San José for three more days than the Government has a right to detain her under the contract entered into with the Pacific Mail Company, with the understanding that the expense occasioned by the delay shall be covered by the Government (*oportunamente*), at the same time reiterating to Your Excellency the request which I made to you, to the effect that the arms which the said steamer *Colima* brings may not be disembarked in any port of the republic of Salvador, but in some neutral port.

In the name of the Government, I give to your excellency in advance the most expressive thanks for this important service, and I am pleased to assure you once more that with distinguished consideration and particular appreciation

I am, etc.,

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E. M. SOBRAL.

[Inclosure 2 in No. 133.]

*Mr. Mizner to Mr. Sobral.*LEGATION OF THE UNITED STATES,
Guatemala, July 27, 1890.

SIR: Referring to our very cordial interview of last Thursday on the subject of the seizure of certain arms and ammunition by Your Excellency's Government on the 18th instant from a Pacific mail steamer in the harbor of San José, I can but regret that Your Excellency has not seen proper to communicate with me in relation thereto, as I understood you to say you would do at once, and before it should become necessary for me to take any action under the telegraphic instructions I had received from Washington, which were in answer to the dispatch I had sent at Your Excellency's request.

I do not feel at liberty to delay compliance with my instructions in the premises, and sincerely trust that Your Excellency will inform me before Wednesday next of the position of your Government as to the seizure, considering at the same time the agreement entered into by Your Excellency and myself in the presence of ministers Anguiano and Salazar, Mr. Sarg, and Mr. Leverich, the agent of the Pacific Mail Company, to the effect that the arms should be stored in San José or sent to a neutral port, and that while the company was in the act of returning the arms to a northern neutral port Your Excellency's Government seized them and has since transported them to this city, placing them in the hands of your military force for use against a nation with which my Government is at peace.

It is scarcely necessary for me to assure Your Excellency of the entire impartiality of my Government in this matter, and that, if the position had been reversed, and Salvador had, prior to a declaration of war, seized arms destined for Guatemala, the same course would have been pursued as is thought just and proper now.

I have, etc.,

LANSING B. MIZNER.

[Inclosure 3 in No. 133.—Translation.]

*Mr. Sobral to Mr. Mizner.*NATIONAL PALACE, *Guatemala, August 1, 1890.*

EXCELLENT SIR: In answering your favor of the 27th of last month, I have the honor to transmit the report on the subject to which you refer, made by the commandant of the port of San José, which says:

"GUATEMALA, July 31, 1890."

"MR. MINISTER: I have the honor to inform you that on the 17th instant the steamer *Colima* anchored in the port of San José, proceeding from San Francisco, bringing 200 Winchester rifles and 50,000 cartridges for the Government of Salvador, and destined to be disembarked at Acajutla.

"At that time it was public that the troops of Guatemala confronted those of Salvador on our frontier on account of the events of the 22d of June, and that an outbreak was inevitable on account of the continued provocation of the forces of the Salvadorians. Under these circumstances I demanded (*pedí*) of the captain of the *Colima* that he deliver the arms to me, because, notwithstanding there had been no formal declaration of war in the usual way, there could be no doubt that war was about to commence at any moment on account of the hostile acts of Salvador which had already taken place by firing upon our forces.

"The captain of the *Colima*, not believing himself authorized to decide the question, referred it to the agent of the company in Central America, Mr. Leverich.

"The *City of Sydney* also anchored in San José, and Mr. Leverich saw fit to agree with our Government, as he informed me, to reship the arms and cartridges on the *Sydney* with a view to their return to San Francisco; but Mr. Leverich directed Agent Jones at San José to order the captain of the *Sydney* to leave the said arms at Acajutla, which was not as agreed upon, and this circumstance decided me to possess myself of the arms for the better security of the republic.

"The fact was the capture of a launch of the Agency Company of Guatemala, manned by sailors of the country, as the arms were being transferred from one ship to the other, without any breach of the courtesy always observed by us for the American flag. If we have commenced to have a want of confidence in the impartiality of the employes of the Pacific Mail Company, it is on account of the repeated acts of hostility they have observed towards Guatemala.

"The steamer *San Juan* transported troops from La Union to Acajutla and emigrants of Honduras from Corinto to La Union on her last trip, which is proof of what I have said.

"This is all I have to report to the minister, reiterating the protestations of appreciation, etc.,

"HENRY TORIELLO,

Commander of the Port of San José.

"Mr. MINISTER OF FOREIGN RELATIONS, Present."

With distinguished consideration and appreciation, I have the honor to subscribe myself Your Excellency's very attentive and obedient servant,

E. MARTINEZ SOBRAL.

His Excellency L. B. MIZNER,

*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America, Present.*

[Inclosure 4 in No. 133.]

Mr. Mizner to Mr. Sobral.

GUATEMALA, August 2, 1890.

MR. MINISTER: In acknowledging the receipt of Your Excellency's communication of yesterday, I can but express surprise and regret at the substitution of a report of the commander of the port of San José for an answer to my note of the 27th ultimo on the subject of the seizure of certain arms on the American steamer *Colima*, especially so when the report fails to respond to the real questions which I had the honor to submit for Your Excellency's consideration, such as my inquiry as to the position Your Excellency's Government intended to take regarding the seizure; the agreement Your Excellency entered into with me concerning the storing of the arms in question in San José or in a neutral port; the fact that the arrangement was the result of an earnest request first made to my Government by Your Excellency, etc.

The opinion of the very gentlemanly commander of the port as to a state of war, or the good faith or impartiality of the Pacific Mail Steamship Company, I suggest are immaterial, or were merged in the very friendly agreement above referred to.

I am, however, instructed to say to Your Excellency that my Government perceives no international right on the part of Guatemala to seize the arms referred to, and that their continued detention must therefore be at her own risk, and that my Government can not consent to the seizure, nor countenance injuries by Guatemala against our own citizens or their property, and, further, that a declaration of war can not validate a prior unlawful seizure.

Regretting that the arms have not been withdrawn from the hands of your military force in the streets of this city and deposited in the United States consular agency at San José, or reshipped to a neutral port, in conformity with our understanding, I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 134.]

LEGATION OF THE UNITED STATES,
Guatemala, August 4, 1890. (Received August 21.)

SIR: Referring to my No. 130 of the 31st of last month, I have the honor to inclose herewith copy and translation of the correspondence between the minister of Nicaragua and the minister for foreign relations of Guatemala, dated, respectively, the 25th and 27th of July last, for the purpose of keeping you informed as to the opinions entertained by those officials, especially as to that of Guatemala.

The news of recent battles may have worked some changes in their views, as there seems to have been quite a conflict between the opinion expressed to me by the President on the 26th of July, to the effect that "Salvador must surrender her last gun to him and pay the expenses of

the war," and that expressed by his minister under his direction on the next day, as shown by the inclosure herewith.

I inclose to you, also, copy and translation of a telegram sent by the ministers of Nicaragua and Costa Rica to General Ezeta, the Provisional President of Salvador, on the subject of good offices, which telegram included copies of the correspondence referred to in my No. 130. As yet no answer has been received from General Ezeta.

I have, etc.,

LANSING B. MIZNER.

[Inclosure 1 in No. 131.—Translation.]

Minister from Nicaragua to the minister of foreign relations of Guatemala.

LEGATION OF NICARAGUA,
Guatemala, July 25, 1890.

MR. MINISTER: I have had the honor to receive your courteous communication of the 24th instant, in which Your Excellency confirms the news contained in the official papers on the unhappy events in the Salvador frontier and expresses the motives that compelled your Government to come into war with that Republic, in spite of all the means used in order to avoid a war that must be disastrous for the whole of Central America.

Your Excellency adds, that with the plausible object of avoiding war, the convention of peace of the 21st (19th) instant was made between Your Excellency's Government and the legations of Nicaragua and Costa Rica, to which the Government of Honduras adhered; and that, in accordance with its object, the Guatemalan forces on the frontier had received strict orders to keep in a watching attitude; but that, doubtless, with the intention of frustrating said convention as far as the cessation of the Government *de facto* of General Ezeta is concerned, the Salvadorian troops, which would constantly provoke the Guatemalans, invaded at last Atescatempa, Guatemalan territory, and, as it was unprotected, they cruelly murdered women and children and set fire to the place.

Your Excellency goes on to say that before such abominable deeds took place the Government *de facto* of Salvador made incendiary utterances against Guatemala and armed the Guatemalan refugees with the idea of upsetting order in this Republic, and that, it being the duty of your Government to resist by all means the violation of its territory, and not feeling disposed to regard with indifference that all the inhabitants of the Republic, regardless of age and sex, should be continually threatened by the savage vandals that have been set against Guatemala by the despots that have seized power in Salvador, such events place your Government in the necessity of accepting war in defense of national honor and integrity, and of its most sacred rights, protesting before the world against the authors of such a fratricidal war and leaving all responsibility on the persons that have led the Salvador people to such an extreme. Your Excellency ends by giving assurances that all neutral persons and interests shall be respected; that war shall be limited to obtain the reestablishment of peace and welfare in Central America, putting to play for this purpose all the facilities accorded to international law and demanded by the peculiar circumstances of the countries that occupy this part of the American continent.*

I can not but deeply regret, Mr. Minister, the events Your Excellency acquaints me with; but, since it has been impossible to prevent war, I trust that the convention we have had the honor of signing shall lead to the reestablishment of order and of a lawful government in Salvador; for this alone, under the present circumstances, can secure the peace and welfare of Central America, as Your Excellency mentions, and this would be the only response to the spirit of Central American feeling with which the events in Salvador have inspired Guatemala, and which the other Republics promptly indorsed by sending their delegates, who made the convention referred to.

On such consideration it would be highly satisfactory to me, in informing my Government of the note I have the honor to answer, as Your Excellency wishes me to do, to be enabled at the same time to assure that, in spite of the war so unforeseeably broken out, which I deeply lament, the diplomatic convention shall be carried on, which, in my opinion, provides for the true interest of Central America. To this effect, I would request Your Excellency to make an explicit declaration in confirmation of my judgment.

I remain, etc.,

G. LARIOS.

Minister of Foreign Relations of Guatemala to the Minister from Nicaragua.

GUATEMALA, July 27, 1890.

MR. MINISTER: Yesterday I had the honor of receiving your courteous note of the 25th instant in answer to my memorandum relative to the acceptance of the unjust war brought against Guatemala by the Government *de facto* of the neighboring Republic of Salvador.

As it might be expected, from your elevated feelings and from the spirit of Central Americanism which animates the Government of Nicaragua, as well as the others that signed or adhered to the convention of the 21st instant, Your Excellency can not but deeply regret the events referred to in my note of the 24th. Your Excellency says, since it has been impossible to prevent war, Your Excellency trusts that the convention referred to shall lead to the reestablishment of order and of a lawful Government in Salvador; for this alone, under the present circumstances, can secure peace and prosperity in Central America, thus responding to the brotherly feeling Guatemala was actuated by on the occasion of the events in Salvador, which the other republics promptly indorsed, sending their delegates, who made the convention referred to. On such consideration, Your Excellency adds, it would be highly satisfactory, in informing your Government of my note, to be in a position at the same time to assure that, in spite of the war so unforeseenly broken out, which Your Excellency deeply laments, the diplomatic convention shall be carried on, which, in your opinion, provides for the true interest of Central America; for which purpose Your Excellency requests that my Government should make an explicit declaration in confirmation of your judgment.

I have received instructions from the President of this Republic to tell Your Excellency that the Government of Guatemala thinks that the diplomatic convention of the 21st instant, if strictly observed, would lead to the reestablishment of order and peace, according to republican principles, which, in prescribing unconditional obedience to the constitution, furnish the only means of returning Salvador to legal government, imparting to that sister Republic and to the others in Central America the tranquillity so urgently wanted.

Accordingly, although said convention has not legal force, not having been ratified yet by the Governments of Nicaragua and Costa Rica (a ratification necessary to consider it strictly binding), I must say that said convention contains the exact views of Guatemala in the present emergency, and that, therefore, the same purposes to abide by its stipulations, provided, though, that the other high contracting parties will strictly fulfill their engagements, as it is to be expected, about which I request Your Excellency, as far as Nicaragua is concerned, to make an explicit statement in confirmation of this opinion, hoping to get a similar statement from His Excellency the minister for Costa Rica, to whom, for this purpose, I send a copy of this note.

I am, etc.,

E. MARTINEZ SOBRAL.

[Inclosure 2, in No. 134.]

GUATEMALA, July 30, 1890.

To Gen. CARLOS EZETA, *Santa Ana* :

In fulfillment of instructions from the Governments of Costa Rica and Nicaragua, which we have respectively the honor to represent, we have solicited the help and coöperation of the diplomatic corps accredited in Central America for the mediation we have decided to offer in order to put an end to the disastrous war which unfortunately has broken out between Guatemala and Salvador.

For this purpose, in the name of our Governments, we have addressed to said diplomatic corps the following communication :

“LEGATIONS OF COSTA RICA AND NICARAGUA,

Guatemala, July 30, 1890.

“SIR: Accepting the invitation addressed by Guatemala to the other Republics in Central America, in order that they should coöperate with their influence to the reestablishment of peace and order in Salvador, the Governments of Nicaragua and Costa Rica have done us the honor of appointing us envoys extraordinary and ministers plenipotentiary to Guatemala. With the view of fulfilling the end of our mission, we signed the diplomatic convention with the Government of Guatemala that Your Excellency knows.

“Unfortunately, war has broken out before such convention could be put into effect, and in such an emergency, earnestly desiring to avoid the havoc of a struggle between sister countries, and in fulfillment of one of the principal objects of our mission, we have decided to offer our mediation, and we hope that, inspired, as Your Ex-

cellency is, with the warmest sympathy towards these countries, Your Excellency will cooperate in the form that may be found most suitable for the attainment of this humane end.

"As circumstances are so pressing, as Your Excellency knows, we request Your Excellency that any resolution that may be arrived at should be communicated to us with as little delay as possible.

"We are, etc.,

"JOSÉ MA. CASTRO AND G. LARIOS."

The answer to the foregoing note was as follows:

"GUATEMALA, July 30, 1890.

"Messrs. MINISTERS: In answer to the courteous note Your Excellencies addressed to us under to day's date, we beg to inform Your Excellencies that, inspired with the most earnest wish to contribute as much as possible to the reestablishment of peace between the Republics of Guatemala and Salvador, we are disposed to interpose our good offices, without any delay, in the form that may seem most agreeable and conciliatory.

"In view of the gravity of circumstances, we purpose at once to tender our good offices to this Government for the reestablishment of peace, within the limits of neutrality, and the respect due to its full, free action.

"As regards the Provisional Government of Salvador, we wish to know whether it is disposed or not to accept the diplomatic mediation Your Excellencies refer to; and perhaps your cooperation might assist us in finding what is the exact disposition of General Ezeta, as well as in letting us know who is the person that is to represent him in a matter we are so directly concerned in, taking into consideration the representative character we are invested with towards that Republic, as well as the respect and duties inherent thereto. For the latter purpose we shall be most happy to confer with Your Excellencies, and assure Your Excellencies that we will omit no means within our power to aid in the attainment of such noble purposes as contained in your note.

"We are, etc.,

"LANSING B. MIZNER,

"United States Minister.

"JULIO DE ARELLANO,

"Minister for Spain.

"L. REYNAUD,

"Chargé d'Affaires for France.

"ARTHUR CHAPMAN,

"H. B. M's Acting Chargé d'Affaires.

"PAUL SCHMAECK,

"Acting Chargé d'Affaires for Germany.

"To Their Excellencies Don José Ma. Castro, minister for Costa Rica, Don Gilberto Larios, minister for Nicaragua.

"Therefore, in order to enable us to carry on our purpose, we request you to be so kind as to let us know your views regarding the suggestions contained in the foregoing notes.

"We are your very attentive and obedient servants,

"JOSÉ MA. CASTRO.

"G. LARIOS."

Mr. Mizner to Mr. Blaine.

No. 135.]

LEGATION OF THE UNITED STATES,
Guatemala, August 5, 1890. (Received August 20.)

SIR: I have the honor to acknowledge the receipt of your telegram, through my colleague in Mexico, dated July 31, 1890.

I desire, also, to confirm my telegram of August 1 to you through the same source.

As I am in hourly telegraphic communication with San José and our naval officers there, and within six hours by rail of that port, I assume that you intended me to go to La Libertad, in Salvador, where the cable lands and interruption occurs, in place of San José, where there is no cable, but a branch land line from here.

I will, therefore, in obedience to your supposed desire, visit La Libertad in our war ship *Thetis* on Friday next, and make such arrangements for the free passage of our diplomatic correspondence as the state of war there will permit.

I will also, if an opportunity presents, and even a government *de facto* can be found, tender our good offices, as you direct.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES, CENTRAL AMERICA,
El Paso, Tex., August 5, 1890.

Mr. Mizner informs Mr. Blaine that General Ezeta declines the good offices of the United States, and declares his intention of hoisting his flag in Guatemala City. He adds that Guatemala had the advantage in the last [yesterday's] battles; gives advice of his own movements, and reports the neglect of Guatemala to return the arms seized on the Pacific Mail steamship *Colima*.

Mr. Wharton to Mr. Mizner.

No. 143.]

DEPARTMENT OF STATE,
Washington, August 5, 1890.

SIR: I inclose herewith, for your information, copies of communications addressed to this Department, by telegraph and mail, in regard to the detention of the Pacific Mail Steamship Company's vessel *Colima* at San José de Guatemala and the seizure by the Guatemalan Government of certain arms on board in transit to a port of Salvador.

I also inclose copy of a telegram* from you to this Department on the subject, which, as has since been learned, was forwarded by the Guatemalan Government to its minister in the city of Mexico, and there delivered to Mr. Ryan to be thence repeated to Washington.

Upon receiving the news of the expected detention of the steamer and the proposed interference of the Guatemalan authorities with a part of her lading as "contraband" in advance of any announced belligerent status of either Guatemala or Salvador, the Department endeavored to instruct you by telegraph, and certain messages were dispatched to you, of which textual copies are appended. Notwithstanding that some of these dispatches went by way of the Mexican lines, it is not known that they or any of them actually reached you; at any rate, no response whatever has been received from you on the subject of the *Colima* incident.

The letters of Mr. J. B. Houston, president of the Pacific Mail Steamship Company, to this Department indicate that the Government of Guatemala rests its claim to stop the arms upon a clause in its contract with the company by which the latter bound itself not to convey to ports adjacent to Guatemala any munitions which it has reason to be-

* See telegram from Mr. Mizner of July 16, 1890.

lieve are intended to be used against Guatemala; and, on the other hand, that the company prefers a direct claim against the Government of Guatemala for breach of an arrangement for the reconveyance of the arms in question to a Mexican port and their deposit there on the company's storage-hulk, which arrangement is said to have been made by the company's agent with your knowledge and sanction.

In this connection, I transmit copy of a telegram from Mr. Ryan, dated 29th ultimo, conveying statements in regard to the seizure of the arms in question which had been made to him by the minister of Guatemala in Mexico.

Your full report of the incident is awaited before the Department can instruct you in the premises. If you have not acted upon the telegraphic instructions sent you, you will await further advices before doing so.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure 1 in No. 143.—Telegram.]

Mr. Houston to Mr. Blaine.

NEW YORK, July 18, 1890.

Pacific Mail Steamship Company's steamer *Colima* left San Francisco for Panama and intermediate ports on July 3. No war between Guatemala and Salvador had been then declared, nor has any proclamation of war been made since. *Colima* had on board as freight shipments of arms destined for ports in Salvador such as are usually carried. Steamer is detained by Guatemalan Government at San José de Guatemala and arms seized. We know of no lawful right to detain her. Are informed our minister has telegraphed you. Please intervene immediately to procure her release and surrender to us of the arms taken. Kindly advise us of the course you intend to pursue, so that we may instruct our agent in Guatemala accordingly.

J. B. HOUSTON,
President.

[Inclosure 2 in No. 143.—Telegram.]

Mr. Lauterbach to Mr. Blaine.

NEW YORK, July 20, 1890.

We have received advices that arms on *Colima* have been confiscated by Guatemalan authorities.

EDWARD LAUTERBACH,
Vice President Pacific Mail Steamship Company.

[Inclosure 3 in No. 143.—Telegram.]

Mr. Houston to Mr. Blaine.

NEW YORK, July 21, 1890.

Have just received telegraphic information that Government of Guatemala has seized steam launch used for carrying passengers from steamer to shore at San José, in addition to confiscation of arms telegraphed yesterday. Please advise us if Department has intervened in our behalf.

J. B. HOUSTON,
President Pacific Mail Steamship Company.

[Inclosure 4 in No. 143.—Telegram.]

Mr. Houston to Mr. Adee.

NEW YORK, July 23, 1890.

Following telegram has just been received from our agent in Guatemala via Acapulco, Mexico:

"*Colima* sailed July 18."

J. B. HOUSTON,
President.

[Inclosure 5 in No. 143.]

Mr. Houston to Mr. Blaine.

PACIFIC MAIL STEAMSHIP COMPANY,
New York, July 26, 1890. (Received July 28.)

SIR: Confirming the telegrams heretofore sent you by me relative to the seizure at San José de Guatemala of cases of arms on the steamship *Colima* belonging to this company and the detention of the steamer, we desire to inform you of the particulars of that occurrence.

The *Colima* is an American built vessel, about 3,000 tons burden, belonging to the Pacific Mail Steamship Company, sailing under the American flag. She left San Francisco, July 3, 1890, on one of her regular trips for Panama and nine way ports of call on the Mexican and Central American coasts. She carried about 150 passengers and 1,700 tons of cargo and the usual amount of mail, which is ordinarily quite heavy. Some of these passengers and a large portion of the cargo were destined for New York, to reach which point they would have to make connection at Panama and Aspinwall with the steamers of the company running on the Atlantic Ocean. Any detention of the *Colima* would therefore result in a failure to make connection with such steamers, and consequently in a loss of time to such passengers, and of money to the owners of such cargo, claims for which may be pressed against the Pacific Mail Steamship Company as owner of the vessel.

On the 16th of July the *Colima* arrived at San José de Guatemala; she was there detained by the Government of that country for carrying contraband, namely, arms and ammunition, which had been received on board the steamer at San Francisco as freight in the usual course and as a customary shipment of merchandise for ports in Salvador. It is not an unusual thing for the company to receive on its steamers, both in San Francisco and in New York, arms and ammunition consigned to various parties in the different republics of Central and South America.

Under the contract entered into between the Pacific Mail Steamship Company and the Government of Guatemala for the carrying of mails and the keeping up of the service of the company's steamer with the ports of said State, the company is prohibited from carrying arms and munitions of war which shall be consigned to any adjoining ports where it (the company) has reason to believe that the same are destined for a nation which is at war with Guatemala, or that the same are intended to be used in the pillage of any portion of the territory of said State. No declaration of war had at the time of the shipment of said arms, or at the time of the arrival of the *Colima* at Guatemala, been proclaimed between Guatemala and Salvador, and this company had no reason to believe that the arms so shipped were to be used in the pillage of any part of the Guatemalan territory; on the contrary, the Guatemalan Government, on or about the 9th of July, requested the Pacific Mail Steamship Company to charter to it (Guatemala) one of the company's steamers for the transportation of 2,000 soldiers from San José de Guatemala to Amapala, in Honduras, stating that no breach of neutrality was intended, and that no war existed or was impending. The shipment of arms, as stated above, was of a like character with shipments which are from time to time received by this company, and there were no reasons why, in this particular instance, such a shipment should not be received without violating any of the terms of the contract between the company and the Government of Guatemala.

Further than this, we have been informed by the agent of the company at Guatemala that, while protesting against the action of the Government in detaining the *Colima* and threatening to confiscate the arms objected to, he offered to have the arms transported from the *Colima* to the company's vessel the *City of Sydney*, which arrived at the port of San José de Guatemala on the 17th day of July, 1890, and have them carried back up the coast to Acapulco, Mexico, and there store them on the company's hulk *Alaska*. This offer was at first accepted by the Government officials,

but while the arms were being transported from the *Colima* to the City of Sydney they and the launch in which they were carried were seized and confiscated by the officers of the Government.

This action on the part of the Government officials was in direct violation not only of the special agreement which they had made with the agent of the company as to the disposition of the arms, but also of the contract between the Government of Guatemala and the Pacific Mail Steamship Company as to the freedom of the vessels of this company from any detention and interference while in the ports of Guatemala.

It will be impossible for business to be carried on between the ports of the United States and the countries of Central America if the Governments of those countries from time to time make unwarrantable and arbitrary seizures of the vessels engaged in such traffic, and this company, while desiring to express its appreciation of the prompt action already taken by your Department in reference to this matter, asks your further assistance in procuring the release of the cargo so seized, besides indemnity for the damage which has been sustained by this company in the seizure of such cargo and the detention of such vessel.

The enforcement of such claims by your Department will doubtless result in the appreciation by the governments of the various Central American states of the fact that the Government of the United States of America is desirous of protecting and guarding the property and rights of its citizens, and that prompt action will be taken by it in every instance to see that such property is secure from seizure and such rights from violation.

We inclose a copy of a letter forwarded by this mail to the President of the Republic of Guatemala.

Very respectfully, your obedient servant,

J. B. HOUSTON,
President.

[Inclosure.]

Mr. Houston to the President of Guatemala.

PACIFIC MAIL STEAMSHIP COMPANY,
New York, July 26, 1890.

To the President of the Republic of Guatemala:

In addition to the protest which has been made to your Government by the Pacific Mail Steamship Company regarding the seizure of the arms and ammunition on board the steamship *Colima* at San José de Guatemala on the 16th day of July, 1890, and the detention of said vessel by the representatives of your Government, we beg leave herewith to submit to you a statement of the particulars of that occurrence and the claims of the company for the damage which it has sustained thereby.

The steamship *Colima*, a vessel sailing under the American flag, entered the harbor of San José de Guatemala on the 16th day of July, 1890, upon one of its regular trips from San Francisco to Panama. She carried a large number of passengers and a heavy cargo destined for various ports of Central and South America, and also for New York, to reach which latter place connection has to be made at Panama and Aspinwall with the steamers running on the Atlantic coast, whose time for sailing is definitely fixed; and any detention which may occur to the sailing of the vessel on the Pacific Ocean will result in a failure to connect with the regular steamers at Aspinwall.

The right of the steamer *Colima* to enter the port of San José de Guatemala rested not only upon the fact that she was sailing under the flag of a nation which was at peace with the Government of Guatemala, but also upon an express contract entered into between the Government of Guatemala and the Pacific Mail Steamship Company, giving to the steamers of said company the privilege of entering the ports of said country without fear of detention or interference by the Government officials at such ports. One of the provisions of this contract which we have referred to expressly gives to the company the right to carry upon its vessels arms and munitions of war, except such as were destined for neighboring ports where the company had good reason to believe that such nation was at war with Guatemala, and that such arms and ammunition were to be used in the pillage of any portion of Guatemala's territory.

Notwithstanding the rights secured to the vessel of a friendly power by international comity and the special provisions of the contract between the Government of Guatemala and the Pacific Mail Steamship Company, the *Colima* was subjected to a search at said port, and certain arms and ammunition which had been shipped at San Francisco in the usual course of the business of the company and as a customary shipment of merchandise for the ports of Central America were seized and confiscated by the agents of your Government, and the steamer was detained and pre-

vented from continuing on her voyage, and making the calls at the various ports at which she was scheduled to arrive, and the connection at Panama and Aspinwall with the steamers for New York.

The seizure of these arms and the detention of the vessel were based solely upon a claim, as this company understands it, that they were being carried by this company, with its connivance, to the Government of Salvador, which State your Government at that time appeared to consider a hostile nation.

The Pacific Mail Steamship Company has always claimed the right, and still insists upon its privilege, of duly complying with the demands of the public, as it is in duty bound to do as a common carrier, to receive and transport all merchandise which is offered to it and which it has the carrying capacity to accommodate.

At the time of the shipment of the merchandise in controversy upon the *Colima* at San Francisco this company had no reason to believe that the consignment so made was in any way in violation of the terms of the contract between your Government and the company, under which it was to have the free access to the ports of your country; and, in addition, no declaration of war had at that time been made against Salvador by your Government, the shipment was made by private parties to private parties in Salvador, and the company had no knowledge of the intended use of such arms or ammunition which would have warranted it in refusing to transport such shipment and thus make itself liable to claims for damage for refusing to transport such goods when it had ship room for them.

We would further state that about the 9th day of July your Government requested this company to charter to it one of the company's steamers for the transportation of 2,000 soldiers from San José de Guatemala to Amapala, in Honduras, expressly stating at the time that no breach of neutrality was intended, and that no war existed or was impending.

In addition to these circumstances, we desire to call your attention to the fact that when the agents of your Government demanded that such goods should be surrendered to them on the ground that they were contraband of war, the special agent of this company, Mr. Leverich, while protesting against the right of your Government in any way to interfere with the freedom of the vessel or the transportation of such arms and ammunition, in deference to the wishes as expressed by such agents, agreed to have such arms and ammunition transferred from the *Colima* to the *City of Sydney*, a steamer of the Pacific Mail Steamship Company which arrived at San José de Guatemala on the 17th instant, in order that they might be conveyed back up the coast to Acapulco, Mexico, and there stored upon the storeship *Alaska*, belonging to said company, until the determination of the question as to whether or not the company should be allowed to transport them to their points of destination. This proposition was accepted by the representatives of your Government at San José, and the arms were actually in process of transshipment from the steamer *Colima* to the steamer *City of Sydney* when they, as well as the launch in which they were so being transferred, were seized and confiscated by the agents of that Government.

The company claims that this confiscation of the arms and ammunition and of the launch, as well as the detention of the steamer *Colima*, has been an unwarranted interference with the rights of a vessel sailing under the flag of a nation at peace with your Government, and desires to inform you that all the circumstances of this case have been called to the attention of the Department of State of the United States of America, in order that the demands of this company for the surrender of such arms, ammunition, and launch, and the release of said steamer, together with a claim for indemnity, shall be duly urged by the Department of State.

The claim which the company has against your Government arising out of this occurrence amounts to the sum of \$500,000, the payment of which is hereby demanded.

Very respectfully, etc.,

J. B. HOUSTON.

[Inclosure C in No. 143.]

Mr. Houston to Mr. Blaine.

PACIFIC MAIL STEAMSHIP COMPANY,
New York, August 1, 1890. (Received August 2.)

DEAR SIR: Inclosed please find copy of a letter dated 31st ultimo received by this company to-day from the consul-general of Guatemala in New York, Mr. Jacob Baiz.

Also copy of our reply to the same of even date. We forward this correspondence in compliance with the request of the Honorable Mr. Adee, that the Department of State should be furnished with all information bearing on this case.

I am, sir, etc.,

J. B. HOUSTON,
President.

*Letter No. 1.**Mr. Baiz to Mr. Houston.*CONSULATE-GENERAL OF GUATEMALA,
New York, July 31, 1890.

DEAR SIR: I am quite surprised to learn from several reporters of the newspapers that your company has seen fit to make exaggerated expression of claims, etc., which your company intend making against the Government of Guatemala for an alleged overt act against one of your steamers in the taking of some arms, etc., from her while in the port of San José. The official information which I have received states that the arms (if any) which were taken from the steamer was only done so by the authority of your agent and with the consent of the American minister at Guatemala, and was in accordance with article 17 of your contract with the Government.

It is to be regretted that in this moment, when the Government of Guatemala is in a state of trouble because of the acts of the Salvador Government, that your company should endeavor to make matters worse, and prejudice public opinion against a country which has always carried out its obligations with your company, whose trade is a source of great revenue to you. I hope I may not seem partial in only asking that justice and moderation may be done to Guatemala, and

Remain, etc.,.

JACOB BAIZ.

*Letter No. 2.**Mr. Houston to Mr. Baiz.*PACIFIC MAIL STEAMSHIP COMPANY,
New York, August 1, 1890.

DEAR SIR: Your esteemed favor of the 31st ultimo has just been received and contents carefully noted.

You close your letter by expressing the hope that justice and moderation may be done to Guatemala. The state of the case seems to be that the Pacific Mail Steamship Company is the party at this time to invoke "justice and moderation" on the part of the authorities of Guatemala in connection with the affair referred to.

We have forwarded a claim to the President of the Republic of Guatemala based upon our rights as an American corporation, without disregarding our duties to that Republic under our contract for carrying the mails.

We have found no one who is cognizant with the contract referred to who places any construction upon it that would allow the Guatemalan authorities the right to lay violent hands upon our ship or cargo, especially in view of the fact that we received a request from the Government of Guatemala (through our agent, Mr. J. H. Leverich) a few days before the arrival of the *Colima* at San José de Guatemala, asking us to charter said Government a steamer to transport 2,000 soldiers to Amapala direct, in which they made the statement that no war existed.

It seems to be the generally conceded opinion of our people and press that the channels of information between the authorities of Guatemala and their ministers, consuls, and agents abroad have been uninterrupted, while those between all other parties have been entirely cut off since the 10th of July last.

I notice from your letter that you state that the arms in question were taken from the steamer "by authority of our agent, with the consent of the American minister at Guatemala." As this statement is entirely at variance with the telegrams which we have received from our agent and other sources, is it possible that the statement referring to your communication with your Government can be correct? If it is so, I will defer to your superior information—otherwise I believe that we have acted properly in accordance with the light which we possessed.

The statement is made to us by our agent that the ship was detained without authority, and that after we had agreed with the officers of the Guatemalan Government to return the arms to Acapulco, to be stored on our storeship *Alaska* they were seized while *in transitu* from the *Colima* to the City of Sydney and confiscated.

For the detention of the ship and for violence done our property, we have rendered a claim to the President of the Republic of Guatemala, and have invoked the assistance of the Government of the United States in its prosecution.

In regard to your statement that this company has in any way aggravated the condition of affairs prejudicial to your Government, you are entirely mistaken. We have simply attempted to defend our rights, and I say this without comment in ref-

erence to your statement that Guatemala has always carried out its obligations to the Pacific Mail Steamship Company.

This latter subject may be referred to later.

Believe me, etc.,

J. B. HOUSTON,
President.

[Inclosure 7 in No. 143.]

Mr. Houston to Mr. Blaine.

PACIFIC MAIL STEAMSHIP COMPANY,
New York, August 4, 1890. (Received August 5.)

DEAR SIR: Referring to my letter of the 1st instant, I now beg to inclose herewith copy of a letter from our special agent in Guatemala (Mr. J. H. Leverich), dated 17th ultimo, relating to the arms and ammunition on board the steamship, *Colima*, which explains itself. You will notice that this letter must have been sent before the arms had been seized and after being placed in the launch to be transferred from the *Colima* to the *City of Sydney*.

We would state, for the information of the Department, that Captain Long is the commander of the *Colima*, and that Mr. Sarg, the gentleman mentioned in the last paragraph of Mr. Leverich's letter, is our agent at San José.

These letters are sent in compliance with the expressed wish of the Department to be furnished with whatever information we receive on this subject.

I am, etc.,

J. B. HOUSTON,
President.

Mr. Leverich to Pacific Mail Steamship Company.

GUATEMALA, July 17, 1890.

DEAR SIR: I received the following message from Capt. J. S. Long this morning from San José, viz: "Shipments of arms for Salvador seized by commandant of port. Ship detained until arms given up. Wire instructions or come yourself." I at once consulted Minister Mizner, who informed me that the Government had appealed to him yesterday not to allow the arms on board *Colima* destined for Salvador to be delivered at Salvador port, and that he had referred the question to Washington, and, in view of above telegram from Captain Long, that he would supplement his dispatch of yesterday, advising the arms had been seized as contraband of war by this Government, although no declaration of war had been made. I then sent you my message No. 1, as per inclosed copy. Later in the day the minister of foreign affairs sent for me and stated that article 17 of the company's contract prohibited the landing of the arms on board *Colima* at destination, and requested that they be landed and deposited at San José with the United States consular agent, and that the Government would guaranty their safe keeping. It was also suggested they should be transhipped to *City of Sydney* to be returned to San Francisco, and I sent an order to the port to hold the *Sydney* until further orders. The answer given me by the superintendent of the telegraph office was that my order was too late, as steamer was just sailing. I thereupon dispatched you my message No. 2 (copy herewith). At 4 p. m. I was advised from San José agency that *Sydney* was detained awaiting my orders.

After consulting with Mr. Sarg and Minister Mizner, we deemed it best to transfer the arms to the *City of Sydney* for storage on hulk *Alaska*, at Acapulco, and I sent you message No. 3 to that effect.

Respectfully yours,

J. H. LEVERICH,
Special Agent.

Mr. Leverich to Pacific Mail Steamship Company.

[Telegram.—Translation.]

No. 1.]

GUATEMALA, July 17, 1890.

Guatemala Government has seized as contraband of war arms for Salvador on board steamship *Colima*. Steamer detained until arms given up. United States minister has telegraphed Washington, D. C., for instructions. Wire instructions.

J. H. LEVERICH,
Special Agent.

Mr. Leverich to Pacific Mail Steamship Company.

[Telegram.—Translation.]

No. 2.]

GUATEMALA, July 17, 1890.

Referring to Guatemala mail contract, Guatemala Government requests deposit arms on board steamship *Colima* with United States consul at San José de Guatemala.

J. H. LEVERICH,
Special Agent.

Mr. Leverich to Pacific Mail Steamship Company.

[Telegram.—Translation.]

No. 3.]

GUATEMALA, July 17, 1890.

I have ordered arms to be transferred to steamship *City of Sydney* for storage on hulk *Alaska*.

J. H. LEVERICH,
Special Agent.

Mr. Wharton to Mr. Mizner.

No. 144.]

DEPARTMENT OF STATE,
Washington, August 6, 1890.

SIR: Your No. 120 of the 16th ultimo, confirming your telegram of the same date in relation to the expected arrival at San José of certain arms intended for Salvador by a steamship of the Pacific Mail Company, was received on the completion of the instruction of yesterday on the subject of those arms.

Your dispatch omits to state that the telegram of the 16th ultimo was transmitted by the Guatemalan secretary for foreign affairs, Señor Sobral, to the Guatemalan Minister in Mexico, a fact having an important bearing on communications with your legation.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Mizner.

No. 145.]

DEPARTMENT OF STATE,
Washington, August 6, 1890.

SIR: I transmit herewith copies of the instructions which the Department has addressed to you by telegraph in relation to the tender of the impartial good offices of the United States to compose the conflict between Guatemala and Salvador.

For further convenience, and in order that this instruction may convey to you a connected view of the position of the Government in this regard, copies are also appended of the telegrams exchanged between this Department and our legation in Mexico touching the proposal of the Mexican Government to act, either jointly or concurrently, with the United States in the interest of peace on the basis of a full recognition of the autonomous sovereignty of the several states of Central America. Only the existing uncertainty, as to whether you have received the Department's instructions in this relation, and as to your ability to effectively execute them, by simultaneous communication

with Salvador and Guatemala, has postponed a definite reply to the suggestion of the Government of Mexico.

The minister of the United States, being accredited equally to the several powers of Central America, will be expected to use his good offices and proffer earnest counsel, without dictation and with conspicuous impartiality, in the interests of peace and harmony among them. Whatever may be the temporary situation of affairs in any of those states, the Government of the United States withdraws none of its friendship for each, and maintains unaltered its respect for their independent sovereign rights. Barred by the highest considerations of reverence for the principle of self-control, on which all truly constitutional forms of popular government must rest, from interfering with the autonomous rights of other commonwealths, it is equally impossible for us to countenance forcible interference from any quarter. Our sole desire is that complete good will may prevail among republics which, by their geographical position and because of the many interests they possess in common, seem especially fitted to move in concord toward the attainment of their conjoint ends.

It is believed that the instructions which have been sent to you to proceed to San José and there avail yourself of the coöperation of our naval vessels, which has been promised in order to open safe and speedy communication with the Provisional Government of Salvador, will enable you to fulfill your instructions with impartial friendship to both contestants, and at the same time to preserve communication with the other Central American governments and take avail of whatever disinterested efforts they may be disposed to put forth toward the restoration of peace. Your mission is important as well as delicate, and, with confidence in your zeal and sound discretion, your report of the result of your endeavors is awaited with anxious interest.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Mizner.

No. 146.]

DEPARTMENT OF STATE,
Washington, August 6, 1890.

SIR: The question of the prompt and certain communication with you during the perturbed condition of Guatemala and Salvador has for some time had the earnest attention of the Department.

It was evident that communications by way of the land lines from Guatemala City to La Libertad were very early interrupted by the hostile operations on the borders of Salvador. Whether the land lines, via Mexico and Nenton, afforded a speedy and secure channel by which to reach you was not so evident. The Department has made every effort to instruct you in regard to the tender of good offices, which we were and are so earnestly desirous to make, and touching, also, the *Colima* incident; but neither of the two telegrams so far received from you since the 17th of July appears to be in response to the instructions sent you in cipher. Dispatches repeated to you through the United States legation in Mexico have been equally without acknowledgment, except, perhaps, the plain telegram which was forwarded to you by Mr. Ryan on the 1st instant, directing you to go to San José, and to which your telegram received on the 2d, via Nenton and the City of Mexico, may be a reply.

I inclose herewith, for your information, copies of all the telegrams sent to you, and exchanged with Minister Ryan, in regard to the apparent obstruction of communication with you. It is desirable that you should carefully compare the dates of the dispatches addressed to you, noting those received by you and the day and hour of their delivery. It is also desirable to know whether you have sent any other telegrams than the few which the Department has received from you through Mr. Ryan.

The Department would be greatly relieved to learn that there has, in fact, been no interruption or interception of your dispatches in any quarter; but in this relation it is interesting to recall that in 1885, at the time of General Barrios's attempt to coerce a union of the Central American States, the Department's telegram of March 10, 1885, deprecating the use of force to that end was unaccountably delayed in transmission, although dispatches immediately preceding and following it were delivered to Mr. Hall with reasonable promptness.

A full report and, if the facts require it, a searching investigation by you is necessary. The right of inviolable and unimpeded communication between a government and its envoy in another country is one of the most important in the intercourse of nations. This is especially the case with such a mission as yours. You are equally accredited to each of the five states of Central America, and your official utility depends, in time of disturbance, on your ability to keep open communications with them and with your own Government. Should the facts disclose any intentional or avoidable interference with your rights in this regard, no more serious cause of complaint could well be presented.

Hence, also, the evident occasion for the Department's instruction to you to proceed to San José, and there open communication with Salvador by the aid of our naval vessels now on that coast. So long as your correspondence with the authorities of Salvador must pass through hostile Guatemalan channels the Department can feel no confidence that its instructions in regard to the impartial tender of our good offices to both combatants are being effectively carried out.

Your report on the subject is awaited with interest and even anxiety. To guard against possible interference or delay, the present instruction will be forwarded to you through the commanding officer of the naval vessels, by way of Acapulco, and steamer thence to San José, in the expectation that it can be personally delivered to you at that port. Should you, unfortunately, not then be at San José, the commander will be requested to send an officer to seek you and place the instruction in your hands.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE.

Washington, August 7, 1890.

Mr. Wharton informs Mr. Mizner that General Guirala has telegraphed that messages from the Department to Mr. Mizner are not detained in Salvador. Mr. Wharton adds that the detention would appear to be in Guatemalan territory, and instructs Mr. Mizner to be watchful in that direction.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 8, 1890.

Mr. Wharton acknowledges the receipt of Mr. Mizner's telegram of this date; asks Mr. Mizner if the attack upon the consulate was made by the Government's order or at the instigation of rioters; directs him to make a full and detailed report on the subject; instructs him to say that, unless the rights of the Government and citizens of the United States are observed, the President will be compelled to devise measures for their enforcement; and directs him, if necessary, to proceed to the capital of Salvador and demand that the consul be reinstated and protected.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
La Libertad, August 8, 1890. (Received August 8.)

Mr. Mizner informs Mr. Blaine that during a battle in the city of San Salvador General Ezeta's forces seized the United States consulate, hauled down the flag, damaged some and destroyed other property. He reports that he has demanded immediate reparation, and that a firmer manner is needed towards Guatemala and Salvador and a stronger American naval force in Central American waters.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
La Libertad, August 9, 1890. (Received August 10.)

Mr. Mizner acknowledges receipt of Mr. Blaine's telegram of the 9th instant, and informs him that the reparation asked for on the 8th is promised for the 10th before noon. He reports his intention to go to San Salvador on the 10th under Department's instructions and at the Provisional Government's urgent solicitation, and that he will advise the Department from that place.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
San Salvador, August 11, 1890. (Received August 11.)

Mr. Mizner informs Mr. Blaine that the Salvadorian Government, in accordance with our minister's demand, hoisted the flag of the United States over our consulate in San Salvador, firing a salute of twenty-

one guns; reinstated the consul in his office and guarantied his rights. He reports the satisfactory conclusion of the incident by an adequate letter of apology from the Salvadorian minister for foreign affairs.

Mr. Wharton to Mr. Mizner.

No. 149.]

DEPARTMENT OF STATE,
Washington, August 11, 1890.

SIR: Referring to previous correspondence relating to the seizure by the Guatemalan Government of certain arms on board the American steamship *Colima* and to the detention of the vessel, I now inclose a copy of a letter from the president of the Pacific Mail Steamship Company to this Department, dated the 7th instant, in regard to the same subject.

I am, etc.,

WILLIAM F. WHARTON.
Acting Secretary.

[Inclosure in No. 149.]

Mr. Houston to Mr. Wharton.

NEW YORK, August 7, 1890. (Received August 8.)

DEAR SIR: The Pacific Mail Steamship Company begs to acknowledge receipt of your favor of the 5th instant, and notes its contents and that the Department awaits the detailed report from the United States minister, Mr. Mizner, of the incident complained of by the Pacific Mail Steamship Company.

Since my last communication to your Department I have received an extract from the report of Capt. J. S. Long, commanding the U. S. S. *Colima*, dated Panama Bay, July 25, 1890, a copy of which is hereto annexed, and have also received copies of telegrams and letters relating to the matter, also hereto annexed, and a marine note of protest, all of which speak for themselves. I also inclose, for your information, a copy of the mail contract between the Pacific Mail Steamship Company and the Guatemalan Government, dated February 25, 1886, together with supplementary contract renewing and modifying the first mentioned contract dated June 17, 1889.

A perusal of these contracts will, I believe, convince you that there is no justification therein for the course pursued by the Guatemalan Government.

In considering this matter, you will probably recall these facts: That when the Pacific Mail Steamship Company's steamer left the port of San Francisco, destined for Panama and intermediate ports, on the 3d of July, 1890, there was not even a rumor of disagreement between Guatemala and Salvador; that the shipment of arms destined for Salvador was not unusual, either in character or destination, and was received in the ordinary course of affreightment; that on the 16th Guatemala sought to charter one of the company's steamers for the conveyance of 2,000 soldiers, not to Salvador, but to Honduras; that on the 17th the *Colima*, without having received any notice of rupture between the two Republics, reached San José de Guatemala; that on the evening of the same day, the *Colima* having arrived in the morning, the company's steamer *City of Sydney* arrived in the same port; that the commandant on the same day boarded the steamer and demanded peremptorily the delivery of the freight in question to the Government of Guatemala, and ordered that the ship should not leave until such delivery was made, accompanying his demand with the threat that the ship would be held by the artillery of the Government; that, acting under this and other threats, Mr. Leverich, special agent of the company, arranged with the representatives of the Guatemalan Government to transfer the freight from the *Colima* to the steamship *City of Sydney*, which was proceeding northward, destined for San Francisco and intermediate northerly ports; that while this transfer was being made under the official permit of the commandant of the port, and on the 18th of July, after the *Colima* had been detained under orders of the commandant, the arms and ammunition were seized by the authorities of Guatemala in direct contraven-

tion of the understanding; that the vessel was detained 40 hours and 5 minutes at the port of San José, causing a detention of the company's connecting steamer at Colon of a corresponding period and seriously interfering with the company's business.

These salient features are referred to as being, in my opinion, a complete negative to the suggestion made, as we are informed by the Guatemalan Government that the contracts referred to permit the detention of the steamer or the seizure of the arms and ammunition. As to the detention, no "grave or urgent case" within the meaning of paragraph v of the contract of September 30, 1887, had arisen, and there certainly was no reason to believe the freight in question was to be used against Guatemala, or that war or pillage was intended at any time, and certainly not at that time. The Department will doubtless take notice that even up to the present time, so far as I know, no declaration of war has been made by or against Guatemala.

Very truly, yours,

J. B. HOUSTON,
President.

[Inclosure 1.]

Extract from report of Capt. J. S. Long, commanding Pacific Mail Steamship Company's steamship Colima, dated Panama Bay, July 25, 1890, addressed to Capt. J. M. Dow, general agent Pacific Mail Steamship Company, Panama.

JULY 15—1:35 p. m.

Arrived at Champerico, Guatemala; anchored in 6 fathoms water. 1:50 ship visited by commandant of the port and mails delivered to him. No passengers were allowed to go or come on board, and no launch allowed alongside, as per order of the President of Guatemala, given to me by the commandant of the port of Champerico; 4 p. m. George Pinto, the clerk, from shore, came alongside in a small boat and received the necessary papers; 5:50 a launch with passengers and specie came from shore, but no cargo was discharged this day.

July 16, 1890 (6:30).—Commenced discharging cargo; 9 a. m. second launch came alongside; 11 a. m. third launch came alongside; 2:40 p. m. all finished; 3:35 under way for San José de Guatemala.

July 17, 1890 (5:30 a. m.).—Arrived at San José de Guatemala and anchored in 10½ fathoms of water; 5:40 ship visited and mails delivered; 6:45 commenced discharging cargo; 7:30 p. m. steamship *City of Sydney* arrived in port.

The commandant of the port, accompanied by the captain of the port, visited me in my room, and then inquired about a shipment from San Francisco to the minister of war of Salvador, consisting of 20 cases of Winchester rifles and 25 cases of cartridges, asking that I should deliver the same to them.

I refused to consider the matter until I had communicated with our special agent, Mr. Leverich, and received instructions from him. The commandant told me that the ship would not be allowed to leave until such delivery was made, even if he had to hold her by his artillery. During all this time cargo was being discharged from the ship as usual. I respectfully call attention to the accompanying inclosures consecutively numbered according to their reception. No delay was experienced either in discharging or receiving cargo. 4:50 p. m. finished work for the day.

July 18, 1890 (6:30 a. m.).—Commenced discharging again; 8:15 arms and ammunition consigned to minister of war of Salvador were discharged into launch for transshipment to steamship *City of Sydney*, as per order of special agent, Mr. Leverich; 3:50 p. m. Pacific Mail steamship *City of Sydney* sailed for Champerico; 8 p. m. cargo all in. Discharged 16, (12) cabin, 4 steerage, passengers, 8 packages mails, 11 head of cattle, 375 tons cargo. Received 9 cabin passengers, 17 packages treasure (\$6,521.75) 64, 32, 40 tons of cargo; 9:35 under way for Acajutla. Detention, 40 hours, 5 minutes.

[Inclosure 2.—Translation.]

Mr. Toriello to Mr. Leverich.

PORT OF SAN JOSÉ, July 17, 1890.

To the Agent of the Pacific Mail Steamship Company:

Be so kind as to notify Captain Long, of the steamship *Colima*, that to-morrow, at 1 o'clock a. m., I shall go to receive the 20 cases of Winchester rifles and the 25 cases of cartridges which he has on board consigned to the minister of war of Salvador, and that they will be confiscated in the name of the Government of Guatemala.

Your obedient servant,

E. TORIELLO.

[Inclosure 2.]

Mr. Jones to Mr. Long.

SAN JOSÉ, GUATEMALA, July 17, 1890—12 p. m.

DEAR SIR: I have this moment received the following communication from the commander of the port:

"Please notify the captain of the steamship *Colima* that, by order of the Government, he must remain in this port 24 hours after concluding the discharging of the cargo, in accordance with article No. 6 of the contract."

Yours, truly,

R. L. JONES,
Subagent.

[Inclosure 4.—Telegram.—Translation.]

Mr. Leverich to Captain Long.

[From Adunna, July 17, 1890. Received at San José at 2:57 p. m.]

To Capt. J. S. LONG:

Minister Mizner has telegraphed Washington for instructions, and I also to the Pacific Mail, New York.

J. H. LEVERICH.

[Inclosure 5.—Telegram.—Translation.]

Mr. Leverich to Captain Long.

[From Guatemala, July 17, 1890. Received at San José, Guatemala, at 5:54 p. m.]

To Capt. J. S. LONG:

Transfer arms for Salvador to *City of Sydney* for storage at Acapulco.

J. H. LEVERICH,
Special Agent.

[Inclosure 6.]

Mr. Jones to Captain Long.

SAN JOSÉ, GUATEMALA, July 18, 1890.

DEAR SIR: The commandant has given official order to permit the transshipment of the 20 cases rifles and 25 cases cartridges to the *City of Sydney*.

I therefore beg you to order the transshipment as soon as possible, so that the *City of Sydney* may reach Champerico this evening.

Yours, truly,

R. L. JONES.

[Inclosure 7.]

Received from steamship *Colima* 20 cases rifles and 25 cases cartridges in transshipment to the *City of Sydney*, and which were captured by the commander of the port in transit from ship to ship.

Permission was given by the commander of the port for above transshipment.

Mark of cases: ^{M. de G.} A. C. A. V. U. T. L. A., consigned to the minister of war, Salvador, by Urruela & Urioste, of San Francisco.

R. L. JONES.

SAN JOSÉ, GUATEMALA, July 18, 1890,

[Enclosure 7.—Form No. 30.]

Marine note of protest.

JULY 26, 1890.

That while transshipping 20 cases of rifles and 25 cases cartridges to steamship *City of Sydney*, by order of special agent, the above-mentioned goods were seized by the commandant of the port, and taken on shore by his orders with armed force, the said goods being consigned to the minister of war, San Salvador; and for said seizure we hold the Government of Guatemala responsible for all damages arising therefrom.

JACOB F. CURIEL,
Consular Agent.

[Mail contract expires September 30, 1889.]

Renewal, covering modification of article 12 and suppression of article 15 of contract expiring September 30, 1887.

The secretary of state for the department of public works, duly authorized by and under instructions from the President, on the one hand, and J. H. Leverich, special agent of the Pacific Mail Steamship Company, on the other, have this day agreed to prorogue for the period of two years the contract concluded on the 23d of February, 1886, for service in the Pacific ports of the Republic—with all and every stipulation embraced therein, except such modifications as are granted below—binding alike the Government and the company; a like agreement being considered as celebrated, to have effect until the 30th of September, 1889.

It is agreed, nevertheless, that during the continuance of this contract the annual subvention stipulated in article 12 of the contract of 1886 shall be reduced to the sum of \$19,500, the same to be paid to the company in the manner and under the conditions expressed in this same article.

Article 15 of the last contract shall not form part of this one.

In witness whereof, and in accordance with custom, two of the same tenor and date are signed in Guatemala this 23d day of July, of the year 1887.

[L. s.]

SALVADOR BARRUTIA.
J. H. LEVERICH.

Contract.

The secretary of state for the department of public works, under authority from the General President, on the one part, and Mr. J. H. Leverich, special agent of the Pacific Mail Steamship Company, on the other, have made the following contract:

ARTICLE I.

Leverich, in the name of the company which he represents, binds himself to have the steamers of the latter perform the service in the ports of the Republic on the Pacific Ocean in conformity with the itinerary now in force, published by the company in New York on the 15th of October, 1885, which same the aforesaid company may modify as regards the dates for connections, leaving unaltered the number of steamers now performing the service, which are as follows:

Two of the steamers, at least, of the line known and designated as the "Through Line," between Panama and San Francisco, Cal., shall call at the ports of San José and Champerico, each one of them once a month, both going and returning.

One of the steamers of the line known and designated as the "Mexican Line," between Panama and Acapulco, shall call, both going and returning, once in each month, at the ports of San José and Champerico. The company, notwithstanding, reserves to itself the right to suspend the service to the Mexican ports; but, in such case, the steamers of the direct line shall perform the service in the ports of San José and Champerico to land and receive passengers, mails, and cargo which those of the Mexican line may fail to do.

Two of the steamers of the line known and designated under the name of the "Central American Line," which perform the service between Panama and Champerico, shall call once a month, both going and returning, at the port of San José, proceeding as far as Champerico."

* See addition to article I in renewal.

ARTICLE II.

Should the Government open a new port on the Pacific coast, the company binds itself to have its steamers come to anchor opposite the same whenever there is cargo, the same as in the port of San José, provided the anchorage will permit it.

ARTICLE III.

The company binds itself to transport all cargo for import or export which may be for or in the ports of Guatemala, and for which it will reserve a minimum space of 250 tons in its steamers.

When the necessities of traffic require it, the company will place one or more additional steamers between Panama, San José de Guatemala, and Champerico, and *vice versa*, calling at Tecojate when there is cargo to embark.

ARTICLE IV.

The steamers of the company shall transport (except in fortuitous cases, or where *force majeure* may render it impossible), without any more delay than the time fixed in the itinerary established, or which may be established, by the aforesaid company, all the correspondence, written or printed, proceeding from or to the ports of Panama and San Francisco, and from or to the ports of Central America and Mexico, delivering and receiving it in the ports of Guatemala, where the steamers are to call in accordance with this contract. The Government of Guatemala will fix the tariff of rates on said correspondence, and will collect the amount as a revenue which belongs to it. The company shall deliver the packages of correspondence at the side of the steamer at the port of anchorage, and shall receive them up to the hour of departure.

Captains shall not be permitted to receive letters outside of the mails, except those which may be delivered to them upon the high seas, which shall be delivered to the officers authorized by the Government to receive them; it is nevertheless agreed that the company may receive and carry outside of the mails all letters or papers for or from its agents or employés when they refer to the business of the company.

ARTICLE V.

The steamers of the company shall convey to the ports of Guatemala mechanics, agricultural laborers, or others who may desire to emigrate to the Republic from any of the ports at which the steamers call at a rate which shall not exceed the half of what deck passengers generally pay, provided there be not more than 25 persons on each steamer, that they come under contract with or engaged by the Government, and present, either written or printed, the contract made by the Government, or with its agents authorized for the purpose.*

The company also agrees to give free passage to the ministers plenipotentiary of the Government of Guatemala in actual service to any of the republics of Central America, to Panama, or San Francisco, California, and *vice versa*, and to the other employés on commission from the Government, upon previous attestation of their character by proper documents.†

The company agrees to transport materials for the construction of railroads, which may come from New York or from San Francisco, when their construction is exclusively for account of the Government, and also for any other work of public utility undertaken by the same, at a reduction of 25 per cent. from the established rates; it being understood that this rebate shall be made solely from the proportion of freight accruing to the steamers mentioned in this contract.

ARTICLE VI.

The steamers shall be received at any hour of the day in the ports where they are to call in accordance with this contract, and shall be dispatched at the hour indicated for their departure, by day as well as at night, on working days or holidays; but if the train shall have already left Guatemala or Retalhulen, the steamer shall not sail until it arrives at San José or Champerico; and, in order that the steamers may suffer no delay, the Government shall give orders to the captains of the ports to receive and dispatch them with the greatest efficacy and promptness.

It is a condition that the steamers shall remain in the ports specified in this contract for a time sufficient to land and embark passengers, mails, and cargo; but in no case shall the delay exceed 24 hours, unless the company agree thereto.

* See addition in renewal.

† See amendment.

It is also agreed that the steamers of the through line shall not be detained at the ports of San José and Champerico longer than the time necessary to land and take on passengers and mails; but if a sufficient quantity of cargo is offered, their stay shall be prolonged to 12 hours.

These through steamers shall be received and dispatched, if the weather permit, at any hour of the day or night.*

ARTICLE VII.

The steamship company binds itself not to increase the tariff for freight and passage now established from the ports of Guatemala to Panama and San Francisco and to the intermediates between the two latter ports, and *vice versa*, collecting the following for passage to New York and to San Francisco:†

From Champerico to New York.....	} † \$170
From San José to New York.....	
From same ports to San Francisco	
	† 100

ARTICLE VIII.

Besides, the company binds itself to make a reduction of 25 per cent. in the tariff established for the transportation of the products of Guatemala to San Francisco, excepting coffee and sugar, the freight on which having already been reduced to \$12.50 and \$8 American gold per ton of 2,000 pounds respectively.

The company also agrees to reduce by 25 per cent. the freight on flour which may be introduced into Guatemala from San Francisco, and the freight which is collected by the existing tariff on corn and wheat from San Francisco, which the Government may have to import on account of poor crops of those cereals in the country.‡

ARTICLE IX.

If, for any unforeseen cause, the steamers shall carry the mails, merchandise, or baggage to other ports of entry of the Republic, for importation, they may land them, binding themselves to reship them to their destination, for their account and risk, in another steamer, without thereby incurring import duties or other imposts in the port of their provisional landing.

ARTICLE X.

The Government of Guatemala concedes to the steamers of the company the right to leave any of the ports of the Republic in case of bad weather without obtaining the corresponding permit.

ARTICLE XI.

The mail service carried on by the steamers shall be performed at Panama, as at present, through the medium of the consul of Guatemala in that city; but when the Government may have no consul at Panama, the company shall attend to this service without any increase of subsidy.

ARTICLE XII.

The Government of Guatemala shall pay to the company, for the service which the latter binds itself to give, an annual subsidy of \$24,000 in silver money coined and current in the Republic, payable monthly, with all preference, to the accredited agent of the company which it binds itself to have in this city; the amounts proceeding from the subsidy may be exported free of all duty.

ARTICLE XIII.

The steamers of the company shall be exempt from all port dues now established, or which may be established in the future.

* See addition to article VI in renewal.

† See addition to article VII in renewal.

‡ American gold.

§ See addition to article VIII in renewal.

ARTICLE XIV.

The steamers of the company shall perform the service with all regularity and exactness, and will not fail to call at the ports specified under any pretext, unless prevented by accident or bad weather; but if they fail to call for any other cause, or do not comply with the stipulation in article 3, the company shall lose and forfeit a proportionate amount of the subsidy for the voyage or voyages and port or ports omitted.

ARTICLE XV.

The Government of Guatemala is at liberty to contract with other individuals and companies for the establishment of new lines of communication; but, counting from this date, and for the term of this contract, it will not grant better conditions or greater advantages than those here stipulated for the service between San Francisco and Panama.

ARTICLE XVI.

If, during the continuance of this contract, the company should desire to sell the steamers which are the object of the same, it shall give notice to the Government of Guatemala three months in advance; the company being bound in any case that the purchasers shall guaranty the faithful fulfillment of the obligations stipulated therein.

ARTICLE XVII.

The company binds itself not to permit troops or munitions of war to be carried on board of its steamers from any of the ports of call to the ports of, or adjacent to, Guatemala, if there be reason to believe that these materials may be used against Guatemala, or that war or pillage is intended.

ARTICLE XVIII.

The company binds itself to strictly prohibit the employes on board its steamers from selling wines, liquors, and other dutiable goods in the ports of Guatemala.

ARTICLE XIX.

Differences that may arise between the Government of Guatemala and the company as to the understanding and fulfillment of the articles of this contract shall be adjusted in Guatemala by means of arbitrators, one named by each party; and, in case of disagreement, a third shall be named by the arbitrators themselves, whose decision shall be final and shall have the force of a sentence of a court of law.

ARTICLE XX.

This contract shall rule from the present date and terminate the 30th day of September of the year 1887.

In witness whereof, and for the constancy of both parties, two of the same tenor are signed in Guatemala this 23d day of February, in the year 1886.

[L. S.]

C. HERRERA.
J. H. LEVERICH,
Special Agent.

The under secretary of the minister of public works certifies: that the above contract was approved by the General President in a decree which was signed the 23d day of the current month.

Guatemala, February 25, 1886.

[L. S.]

D. ESTRADA.

[Mail contract expires September 30, 1891.]

Renewal, covering modifications to Articles I, V, VI, VII, and VIII, and the suppression of Article XX of the contract which expired September 30, 1887.

The secretary of state for the department of public works, under authority from the General President, on the one part, and J. H. Leverich, special agent of the Pacific Mail Steamship Company, on the other, have made the following contract:

I.

The contract entered into by the department of public works and Mr. J. H. Leverich on the 23d of February, 1886, is prorogued for two years: said prorogation terminating the 30th of September 1891, and in accordance with the terms as hereinafter set forth.

II.

The following is added to article i: All the steamers of the line known and designated as the "Mexican Line," between Panama and Acapulco, will call once a month, both going and returning, in the port of Ocos, and from November until June one of the "through" steamers will call in the same port each month both outward and homeward.

III.

The following is added to paragraph 1 of article v: All immigrants, artisans, and farm laborers who may desire to come to the Republic with the intention of settling permanently will be entitled to the rebate of 50 per cent., provided they obtain a certificate to that effect from the Guatemalan consul in the port in which they embark, although they may not come under contract with the Government.

IV.

Paragraph 2 of article v is modified as follows: The company also agrees to grant free passage to ministers plenipotentiary, consuls, and other attachés of the legations and consulates of the Government of Guatemala in actual service to any of the Central American republics, to Panama, or San Francisco, California, and *vice versa*, and to the other employes of the Government in commission, upon previous attestation of their character by proper documents.

V.

The following is added to article vi: Neither passenger nor goods may be landed before the visit of the commandant of the port shall have taken place; and, in case of bad weather, the steamer will wait a day longer in order to effect a landing.

In grave and urgent cases the Government has the right to delay the steamers in the port 24 hours beyond the regular time agreed.

When there is good weather, steamers can not leave the port without a permit from the proper authority, who will issue it for the next port where the steamer is to call.

Every steamer must present the respective manifests made out in conformity with the bills of lading and deliver them to the Government employé commissioned to receive them on board.

VI.

The following is added to article vii: Persons securing passage from San Francisco to New York, or *vice versa*, will have the right to remain over in Guatemala during the time between one steamer and another, giving the company a guaranty of their reëmbarking.

VII.

The following is added to article viii: Whenever a steamer shall call at San José or Champerico, a private individual may exchange two ordinary animals of the country for one of the same species from California then on board.

VIII.

Article xx is suppressed.

In witness whereof, and for the constancy of both parties, two copies of the same tenor are signed in Guatemala this 17th day of June of the year 1889.

[L. S.]

SALVADOR-ESCOBAR.
J. H. LEVERICH.

Mr. Wharton to Mr. Mizner.

No. 150.]

DEPARTMENT OF STATE,
Washington, August 11, 1890.

SIR: I inclose for your information a copy of Mr. Ryan's No. 350, of the 24th ultimo, reporting that he had forwarded to you Department's cablegram of the 19th of the same month and inclosing copies of telegrams relating to the war in Central America.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 12, 1890.

Mr. Wharton instructs Mr. Mizner to express this Government's gratification at the course of Salvador in reinstating the consul, saluting the flag, and promising a guaranty of the rights of the United States

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
San Salvador, August 12, 1890. (Received August 12.)

Mr. Mizner informs Mr. Blaine that peace has been suggested by the Provisional Government of Salvador upon terms of nonintervention, and that he will telegraph from Guatemala on the 16th instant, as soon as he can confer with the Guatemalan Government. He reports that armies are quiet and in camp.

Mr. Mizner to Mr. Blaine.

No. 139.]

LEGATION OF THE UNITED STATES,
Guatemala, August 15, 1890. (Received September 5.)

SIR: I have the honor to report to you my arrival at these headquarters of my mission to Central America yesterday afternoon, having left San Salvador at 9 o'clock of the previous morning and reached the port of San José de Guatemala from La Libertad, Salvador, at day-break of the 14th instant, resuming at once my official duties on arrival here.

I have, etc.,

LANSING B. MIZNER.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 15, 1890.

Mr. Wharton telegraphs Mr. Ryan that, upon informing himself that the Mexican Government appreciates our position in the matter of the tender of friendly offices for the restoration of peace between Salvador and Guatemala, and that it is aware that our instructions to Mr. Mizner to tender the good offices of this Government were first sent to him on the 20th of July, before the offer of Mexico was known to us, he will, on behalf of the Department, telegraph Mr. Mizner that this Government is glad to welcome Mexico's friendly disposition to act in concurrence with us in tendering good offices for the restoration of peace between the two Central American States upon the basis of equal respect for the autonomous sovereignty of all the states concerned. That Mr. Mizner should confer with the Mexican minister in Guatemala that the efforts of both may tend to the common object so earnestly wished for by the Governments of both. That while his instructions must not be taken as contemplative of joint action of the foreign ministers at Guatemala City, the good will of the diplomatic corps directed to the same end would be regarded as a valuable aid toward the settlement of the difficulties without dictation or interference with any of the rights of autonomous government in Central America.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
La Libertad, August 16, 1890.

Mr. Mizner informs Mr. Blaine that he has arranged for telegrams five times monthly each way through La Libertad by steamer to and from San José with the assurance that they may be sent from La Libertad direct by way of Honduras, if possible. He reports that our naval officers are at La Libertad much of the time; that our good offices and mediation have been accepted by both belligerent states, and that bases of peace will be suggested on the night of the 16th or morning of the 17th instant by the diplomatic corps. He adds that only by a prompt declaration of peace can another battle be avoided.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES, -
Guatemala, August 18, 1890. (El Paso, Tex., August 20.)

Mr. Mizner informs Mr. Blaine that he telegraphed him on the 16th instant by way of La Libertad, and that he intends to send the present message via Mexico. He says that when in Salvador on the 12th instant he offered the good offices and mediation of the United States

to the Provisional Government there and they were accepted. Returning to Guatemala City on the 14th instant and finding that our good offices had been accepted there also, he reports that he convened the diplomatic body that evening and bases of peace were suggested by the meeting, of which the ministers of both belligerent powers signified their acceptance subject to approval within five days by the respective Presidents. Such approval, he adds, was regarded as almost certain. The terms of the agreement, he goes on to say, were that the Provisional President of Salvador should retire from the exercise of all civil functions, and that the First Vice President should assume power in his stead for three weeks, and call an election for President; the successful candidate to continue in office during the remainder of the term of President Menendez and throughout the whole of the following term; that both Governments should withdraw their armies two days after notice of Presidential approval should have been given by the diplomatic corps, and that they should be reduced to a peace footing; that no demand should be made for reclamation or for any indemnity. He adds that Honduras remains to be conferred with, and expresses the opinion that certain political factions, as well as the two armies, will fail to be satisfied, although the best has been done that was possible.

Mr. Misner to Mr. Blaine.

No. 141.]

LEGATION OF THE UNITED STATES,
Guatemala, August 18, 1890. (Received September 5.)

SIR: I have the honor to inform you that on my arrival at La Libertad, in Salvador, on the 8th instant, on the U. S. S. *Thetis*, Lieutenant-Commander Stockton commanding, I was met by Henry R. Myers, esq., our consul to Salvador, who was about to sail in the Pacific Mail steamer for New York, but determined to remain temporarily for the purpose of explaining to me the reasons for his hasty departure. He stated that during the attack of the 30th and 31st of last month, against General Rivas, in the city of San Salvador, the United States consulate was assaulted by the forces of the Provisional Government, the building and archives much damaged, our flag torn down, and he compelled to lie on the floor of his bath room for over thirty hours to escape the continued rain of leaden balls. He stated, also, that he heard the order given by one of General Ezeta's officers to tear down our flag; that it was so torn down and dragged in the streets by General Ezeta's soldiers; that the consulate was taken possession of by Provisional forces and used as a stable, and that he was refused permission by the Provisional forces of the privilege of telegraphing the facts to his legation in this city or to his Government. Upon inquiry of General Calonge, the commandant of La Libertad, I learned that he was one of General Ezeta's officers in the capital at the time and saw the flag in the possession of one of his soldiers; took it away from him and gave it to a German.

On the same day, to wit, the 8th of August, a committee from General Ezeta, consisting of Messrs. Amaya and Dawson, called on me on board the *Thetis*, inviting me to the capital, which invitation, in view of the treatment our consul had received, I for the time declined; but upon being subsequently assured that they had conferred by telegraph with General Ezeta, and that he was willing to make any reparation for the indignity which I might think proper, I consented to visit San Salvador as soon

as the proper honors were paid to our flag. Accordingly, Lieutenant Denfeld, U. S. Navy, was directed, under my instructions, to proceed to San Salvador and cause the flag to be hoisted over our consulate by the Provisional Government, duly saluted, the consul reinstated in his office with all proper guaranties, and a written apology made, as will appear by a copy of the report of Lieutenant Denfeld herewith, showing that my instructions were complied with.

Arriving at the capital on the 10th instant I inspected the consular premises, finding them damaged as stated. For further details of the conflict, reference is made to the report of Consul Myers to the State Department.

The result of this action has been most salutary.

I have, etc.,

LANSING B. MIZNER.

[Inclosure in No. 141.]

Report of Lieutenant Denfeld.

U. S. S. THETIS (THIRD RATE),
Acajutla, San Salvador, August 12.

SIR: I have the honor to make the following report in obedience to your orders of August 8, 1890, a copy of which is appended marked A. About 11 a. m. in the morning of August 9, 1890, I arrived at the capital, proceeding to the office of General B. Molino Guivola, secretary general of the Provisional Government of San Salvador, accompanied by the United States vice-consul, F. Baruch, who acted as interpreter. Explained my mission, and read to him my letter of instructions from Hon. Lansing B. Mizner, United States envoy extraordinary, etc., to the republics of Central America, a copy of which is appended marked B. Then I requested to be presented by the secretary general to General Carlos Ezeta, the Provisional President. The secretary-general announced my mission, and, as a result of our interview, the Provisional President desired to have me send a telegram, hereto appended marked C. In answer to the above-mentioned telegram, I received one from the United States minister, hereto appended marked D.

I made known the contents of the above telegram to General C. Ezeta and was assured by him that the ceremony would be performed according to my letter of instructions between the hours of 8 and 9 a. m., August 10, 1890. The following morning I arrived at the United States consulate at 7:45 a. m., the consul and vice-consul being present. An official from General Ezeta informed me at 9 a. m. that the ceremony would take place at 12 o'clock, and requested me to inform the United States minister by telegram, a copy of which is appended marked E, and to invite all American citizens to be present. At 9:30 a. m. I received a telegram from you, a copy of which is hereto appended marked F, and 15 minutes later the secretary-general informed me that I might name the hour for the ceremony to take place. Accordingly, I set the hour at 10:15 a. m., and requested the consul and vice-consul to notify all the American citizens. At the above-mentioned time a full company of infantry, two pieces of artillery, and a band were drawn up in the square in front of the United States consulate. The United States flag was hoisted at the consulate by a commissioned officer of the Provisional forces, the infantry company presented arms, the band played the national air of San Salvador, and the artillery fired a salute of 21 guns in the presence of myself, the consul, vice-consul, the American citizens, and several foreigners. I then called on the secretary-general, who agreed to comply with the remaining articles contained in the United States minister's letter of instructions.

After this agreement I sent you a telegram, copy of which is hereunto appended marked G. In all my dealings with the authorities I was treated with the utmost courtesy.

Your obedient servant,

G. W. DENFELD,
Lieutenant, U. S. Navy.

Lieut. Commander CHARLES H. STOCKTON, U. S. N.,
Commanding U. S. S. Thetis.

U. S. S. THETIS,
Off Acajutla, Salvador, August 13, 1890.

Respectfully forwarded for the information of the Hon. L. B. Mizner, envoy extraordinary and minister plenipotentiary to Central America.

C. H. STOCKTON,
U. S. Navy, Commanding.

A.

U. S. S. THETIS (THIRD RATE),
La Libertad, San Salvador, August 8, 1890.

SIR: By request of the Honorable L. B. Mizner, envoy extraordinary, etc., to the republics of Central America, you are hereby detailed, as representative of the United States, to proceed to San Salvador and there witness the ceremony of the restoration of the flag of the United States over the consulate of the United States in the city of San Salvador and the due reinstallation of the United States consul in his office and residence.

This ceremony will be performed by the representatives of the Provisional Government of Salvador in the manner indicated in the accompanying letter of instructions. Upon the performance of this duty, you will return to this vessel, making a written report to me of the entire matter.

I am, respectfully,

CHAS. H. STOCKTON,
Lieutenant-Commander, U. S. Navy, Commanding.

Lieut. (junior grade) G. W. DENFELD, U. S. N.

B.

Letter of instructions.

U. S. S. THETIS (THIRD RATE),
Off La Libertad, San Salvador, August 8, 1890.

SIR: Upon your arrival at San Salvador you will place yourself in communication with the officials in charge of the military and political departments of the Provisional Government in San Salvador and read to them this letter of instructions containing the requirements necessary to atone for the indignity recently offered the flag of the United States, the consular official residing there, and the building of the consulate.

They are as follows:

First. That the flag shall be hoisted in broad daylight over the consulate by an uniformed commissioned officer of the Provisional forces.

Second. As the flag is hoisted a salute shall be made by a company of infantry under arms, accompanied by music. If practicable, this should be accompanied by a salute with artillery.

Third. That the consul of the United States shall be duly placed in possession of his office, his property, and the archives, with a full resumption of his consular rights and prerogatives, including free and undisturbed use of mail and telegraphic facilities to the minister of the United States residing at Guatemala and to the United States.

Fourth. That the minister of the Provisional Government charged with the foreign relations of Salvador should address to me a letter expressing his regrets and apologies.

Fifth. That as soon as practicable a satisfactory payment be made for the damage done to the property of the United States and the private property of the consul.

I am, very respectfully,

LANSING B. MIZNER,
United States Minister.

To Lieut. G. W. DENFELD, U. S. N.,
On Board U. S. S. Thetis, off La Libertad, San Salvador.

C.

[Telegram.]

SAN SALVADOR, August 9, 1890.

To Lieut. Commander C. H. STOCKTON, U. S. N.:

(For Hon. Lansing B. Mizner, United States minister, care of consular agent. *La Libertad.*)

First. His Excellency Provisional President Ezeta requests that you visit him at San Salvador.

Second. That you hear from the authorities their view of the insurrection and see yourself the promiscuous damage done in the neighborhood of consulate.

FOREIGN RELATIONS.

Third. After hearing, and seeing, you still insist that the flag be saluted, as called for in my letter of instructions, the authorities will comply with your request.

I await your instructions, as this telegram is the result of my presentation of letter of instructions to the Provisional President Ezeta.

Your obedient servant,

G. W. DENFELD,
Lieutenant, U. S. Navy.

D.

[Telegram.]

LA LIBERTAD, August 9, 1890.

Lieut. G. W. DENFELD, U. S. N. :

I regret exceedingly that my requests, as agreed upon yesterday with General Ezeta's representatives, Messrs. Dawson and Amaya, have not been complied with. Am further instructed to-day from Washington to demand full reparation at once. Remain in San Salvador and report. Will not visit the capital for the present. Read this to General Ezeta.

L. B. MIZNER,
United States Minister.

E.

[Telegram.]

SAN SALVADOR, August 10, 1890.

To Capt. C. H. STOCKTON,

Commanding U. S. S. Thetis :

(For L. B. Mizner, United States Minister, care of Emilio Courtado, United States consular agent, La Libertad.)

A messenger from the President has just informed me that the ceremonies at the consulate will take place at 12 o'clock to-day, and requests that I telegraph this fact to you.

Your obedient servant,

G. W. DENFELD,
Lieutenant, U. S. Navy.

F.

[Telegram.]

LA LIBERTAD, August 10, 1890.

Lieut. G. W. DENFELD, U. S. N. :

Having been assured by the Provisional President that the ceremony will be performed this morning, we are about to leave for the capital. Telegraph me at Zaragoza what has occurred at 11 a. m.

C. H. STOCKTON.

G.

[Telegram.]

SAN SALVADOR, August 10, 1890.

Capt. C. H. STOCKTON, U. S. N.,

Zaragoza :

The ceremonies have just been performed satisfactorily.

Your obedient servant,

G. W. DENFELD,
Lieutenant, U. S. Navy.

Mr. Wharton to Mr. Mizner.

No. 155.]

DEPARTMENT OF STATE,
Washington, August 19, 1890.

SIR: I have received your No. 126 of the 28th ultimo, acknowledging the receipt on the 23d ultimo, through Mr. Ryan, of the Department's telegram of the 19th of the same month, relating to the seizure by the Guatemalan Government of the arms on board the steamship *Colima*.

Consideration of this subject is necessarily deferred until your further dispatches shall place the whole case before the Department and the action of the Guatemalan Government upon your demands in respect to this unjustifiable seizure shall be known.

I am, etc.,

WILLIAM F. WHARTON.
Acting Secretary.

Mr. Mizner to Mr. Blaine.

No. 144.]

LEGATION OF THE UNITED STATES,
Guatemala, August 20, 1890. (Received September 5.)

SIR: As to the detention and interruption of our official telegrams in these countries, I have the honor to say that on my arrival at Acajutla, in Salvador, on the 8th instant, I addressed a note to the Provisional President on the subject, receiving an answer next day at La Libertad. Similar inquiries and answers have been made and received in this Republic, all of which answers are so in conflict with information in my possession that I desire to investigate the matter further before giving you my conclusions. I may state, however, that my experience in this connection is very similar to that of my immediate predecessor, as described in his dispatches Nos. 331 and 332 of March 27 and April 6, 1885.

The confusion has been even greater than at that time. The direct wire connecting this capital with the cable at La Libertad passes through the lines of the belligerents, and has, of course, been obstructed.

The other wire, passing through Honduras, has been interrupted. The wire direct to my colleague in the city of Mexico and the other via Paso del Norte, Bonilla & Co. Agency, have been subject to the accidents and delays incident to a long line through a sparsely populated country.

As my written dispatches by Livingston and New Orleans reach you in about 16 days, with the exception of those recently lost on the *City of Dallas*, of which duplicates have been forwarded, I trust that the public interest has not suffered.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 145.]

LEGATION OF THE UNITED STATES,
Guatemala, August 20, 1890. (Received September 5.)

SIR: The first accounts of battles are always uncertain, but they are especially unreliable in these countries, where the "reporter" and a free press are unknown, and where there is a tendency to suppress or exaggerate the facts, as interest or feeling may dictate.

Up to this time there is no official or reliable report of the series of engagements which took place between the undisciplined troops of Guatemala and Salvador a month ago.

It was, however, admitted, as I telegraphed you at the time, that Guatemala was worsted, and it is now quite certain that her defeat was serious, if not disastrous.

Under your instructions, and with entire impartiality, I have devoted myself rather to the task of inducing these Republics to make peace than to watching and reporting details of battles more or less important.

As dean of the diplomatic corps in Central America, much of the labor incident to the situation has devolved upon me, and I have endeavored to discharge the same.

Having been present in San Salvador only a few days after the battle in that city with the vacillating General Rivas, a correct statement of that affair and the events leading up to it may be now given. As heretofore stated, General Rivas, a Salvadorian, and governor of one of the provinces of Salvador, incited a revolution against the Government of President Menendez last December, but was promptly defeated and driven into Honduras.

At the breaking out of the present troubles, he joined Honduras and Guatemala against the Provisional Government of General Ezeta, but was induced by that general to again aid Salvador against Guatemala. He came to San Salvador about the 28th of last month, receiving from General Ezeta over 2,000 stand of arms with which to arm his soldiers, and promptly moved to Santa Tecla, 10 miles distant, and in the direction of the Guatemalan frontier, with the avowed purpose of aiding the attack against Guatemala, but on the 29th of July changed his mind, returned suddenly to and captured the city of San Salvador, declaring Dr. Ayala the first *designado* to be President. Gen. Antonio Ezeta, the brother of the Provisional President, hearing of this movement, marched rapidly from Santa Ana, and on the 30th and 31st of July assaulted General Rivas with great energy, drove him out of the capital, captured and shot him as a traitor on the 1st of August, completely dispersing his army. This was a street conflict with small arms, lasting two days, during which time the President's palace, the American consulate, and many other public and private buildings were completely riddled with balls.

The killed are variously represented at from two to three hundred; the wounded at about the same number, but no official statement thereof had been made when I left that city on the 12th instant.

This information was obtained from our consul and many others who were present and saw the battle.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, August 21, 1890.

Mr. Mizner reports to Mr. Blaine that upon our demand for the restoration of the arms the Guatemalan Government requires the official who seized the arms on the *Colima* to return them, with a written apology for his act. He adds advice of the reservation of all rights for damages.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, August 25, 1890.

Mr. Mizner reports the nonagreement of Salvador to the bases of peace and the extension of the time 4 days by the Government of Guatemala.

Mr. Wharton to Mr. Ryan.

[Telegram].

DEPARTMENT OF STATE,
Washington, August 25, 1890.

Mr. Wharton acknowledges receipt of Mr. Ryan's telegram of the 22d instant and instructs him to telegraph Mr. Mizner that he should suggest to the Guatemalan Government the submission to arbitration of the existing differences in Central America in accordance with the provisions of the arbitration articles proposed by the International Conference; Guatemala to choose a neutral power as her representative, and Salvador to name another neutral power as hers, the two to act as arbitrators, and the existing situation to be maintained during the deliberations.

Mr. Ryan is further instructed to telegraph Mr. Mizner that upon receipt of these instructions he should notify the legation at Mexico of the fact by telegraph, whence the advice must be immediately telegraphed to the Department at Washington.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, August 27, 1890. (City of Mexico, August 28, 1890.)

Mr. Ryan repeats a telegram from Mr. Mizner which acknowledges receipt of Department's telegram to him of the 27th instant; states that he visited Acajutla, Salvador, with three members of the diplomatic corps on Monday, and there met General Ezeta and several hundred leading Salvadorians; that the bases of peace were explained, and, after being slightly modified, were accepted and signed by the Provisional President of Salvador; and that, upon his (Mr. Mizner's) return to Guatemala City on the afternoon of the 27th, they were accepted and signed late at night by Guatemala also. He adds that both parties have received official notice to withdraw their armies within 48 hours and to reduce them to a peace footing within 8 days, and concludes that peace in Central America is thus established, except as to possible outbreaks of an internal character.

Mr. Mizner to Mr. Blaine.

No. 147.]

LEGATION OF THE UNITED STATES,
Guatemala, August 27, 1890. (Received September 12.)

SIR: I have the honor to acknowledge the receipt of your telegraphic instructions of the 15th instant, forwarded by my colleague in Mexico.

I conferred at once with Señor Platon Roa, the acting chargé d'affaires of Mexico in this Republic, who informed me that he had no instructions whatever on the subject of any joint action with the United States looking to the peace of any of the Central American states.

The newly appointed minister of Mexico to Guatemala has not arrived. He was expected on the steamer now due, but I am informed that he is not aboard.

The object of your instructions, the peace of these states, having just been accomplished, as stated in my telegram of this date, I suppose further action thereunder may be suspended.

The extreme heat and fatigue of two journeys to Salvador has so prostrated me that I will have to ask your indulgence until next mail for the details of the peace referred to.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 148.]

LEGATION OF THE UNITED STATES,
Guatemala, August 28, 1890. (Received September 18.)

SIR: I have the honor to acknowledge the receipt of your telegraphic instructions of the 25th, which were repeated to me by my colleague from Mexico on the 26th instant.

The bases of peace between Guatemala and Salvador having been accepted and formally signed by the two Republics, further action on the subject of arbitration, as suggested in the foregoing telegraphic instructions, would be rendered, I suppose, unnecessary.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, August 28, 1890. (El Paso, Tex., August 29, 1890.)

Mr. Mizner reports that General Barrundia resisted arrest on the steamer *Acapulco*, in port at San José, on the 28th instant, and was killed by Guatemalan authorities, he firing upon the officers and captain first. He adds that he had guaranties for the safety of General Barrundia, and that he joined the consul-general of the United States in advising the captain of the steamer that, martial law being still in force, he should permit the arrest of General Barrundia upon charges of being an enemy.

Mr. Mizner to Mr. Blaine.

No. 150.]

LEGATION OF THE UNITED STATES,
Guatemala, August 29, 1890. (Received September 18.)

SIR: Referring to my cipher telegram of yesterday, in connection with which I have the honor to inform you that on my return to this capital from Salvador via San José de Guatemala, on the afternoon of the 26th instant, I found that the consul-general and secretary of this legation had, in my absence, received pressing applications from the commandant of the Guatemalan port of Champerico and from the President and the minister of foreign relations of this Republic, stating that one Gen. J. M. Barrundia, a citizen of Guatemala, was on board the Pacific Mail steamer *Acapulco*, then in that port, making the allegations that General Barrundia was an enemy and hostile to this Republic, and that he was guilty of high treason and other crimes against this his native land. That he was en route for the Republic of Salvador, a nation with which Guatemala was and is now at war, and requesting the consul-general to instruct the captain of the steamer not to throw any obstacle in the way of the arrest of General Barrundia by the authorities of Guatemala while the steamer should remain in the waters and jurisdiction of Guatemala. Accordingly, Consul-General Hosmer consented, by telegraph, all of which will more fully appear from his dispatch No. 243 of this date, to which I beg leave to refer, and to have this dispatch considered as a continuation of the history of the case.

At noon on the 27th instant I received a telegram from the captain of the steamer, of which inclosure 1 is a copy, and promptly answered it as per inclosure 2. The allusions to the personal safety of Barrundia referred to were, at my request, promised the night before by the President and minister of foreign relations. At 10 p. m. I received another telegram from the captain of the steamer (inclosure 3), requesting me to advise him in writing. At the same time I received a telegram from Commander G. O. Reiter, U. S. Navy, commanding U. S. S. *Ranger*, senior officer present (inclosure 4), in which he acknowledged Guatemala's right over the steamer and requested me to obtain permission from this Government to return Barrundia to Mexico in the U. S. S. *Thetis*.

The minister of foreign relations being present in my parlor, I made this request of him; but it was positively declined. In view of all the circumstances, to wit, that Guatemala had, on the 21st day of July, decreed martial law throughout the Republic, which decree is still in force, and did, on the 23d day of July, formally declare war against the Republic of Salvador, which declaration is yet in full force, the steamer being at anchor in the port of Guatemala and within her jurisdiction, bound for a port in the enemy's country, to wit, La Libertad, in Salvador, where, a daughter of Barrundia that same day told me, he intended to land, notwithstanding he had a ticket for Panama, the alleged and well-known history of Barrundia towards this Republic, his attempted invasion of Guatemala from Mexico, decided me to advise the captain of the steamer to submit to the arrest of his passenger, as indicated in my letter (inclosure 5).

On the next day Commander Reiter telegraphed me (inclosure 6) that Barrundia had resisted arrest and been killed, and on the same day reported by letter, as per inclosure 7, to the effect that at about 2:30 p. m. of that day the commandant of the port at San José went on board the *Acapulco* with several policemen, showed my letter of advice to Captain Pitts of the steamer, and they together went to Barrundia's

stateroom, told him of my letter, and that he, the captain, could no longer protect him. Barrundia then seized a pistol from the upper berth, fired three shots at the commandant and captain, who beat a hasty retreat and took refuge in a stateroom, followed by Barrundia firing wildly, passing out to the port side of the deck, thence forward across to the starboard side, through social hall, then back through social hall, and turned to go forward on the port side, when he fell. It was impossible to tell just where the detectives were at the time. He died where he fell, pierced by several bullets. The body was brought to this capital and interred in the city cemetery.

The ship was not detained longer than the time allowed by the contract between the Government and the mail company. The commandant who attempted the arrest was in uniform and well known to Barrundia.

The minister of foreign relations informed me yesterday that Barrundia feared violence from individuals or mobs, on account of his many cruelties when secretary of war under General Barrios, rather than any serious punishment by the Government, and that he was secretly buried before daylight for similar reasons. The minister, however, said that he was quite confident that the Government could have protected him from any such violence.

This Government also claimed the right to arrest Barrundia under its contract with the Pacific Mail Steamship Company, to which the *Acapulco* belonged, the 17th section of which is as follows:

ARTICLE 17.

The company binds itself not to permit troops or munitions of war to be carried on board of its steamers from any of the ports of call to the ports of or adjacent to Guatemala, if there be reason to believe that these materials may be used against Guatemala, or that war or pillage is intended.

I respectfully suggest, in view of our increasing commercial and social intercourse with these Central American states and the possibility of future local disturbances, that an authoritative declaration of the law of nations on the subject be made.

I have the honor, etc.,

LANSING B. MIZNER.

August 30.

Since writing the above, the daughter of Barrundia referred to entered this legation, and, in an angry and violent manner, with her hand on a pistol, threatened my life for consenting to the arrest of her father. She was removed by Consul-General Hosmer.

L. B. M.

[Inclosure 1 in No. 150.—Telegram.]

Captain Pitts, of the American merchant steamer Acapulco, to Mr. Mizner.

[Received at telegraph office in Guatemala at 10:19 a. m.; received at legation at 12 m., August 27, 1890.]

CHAMPERICO, August 27, 1890.

UNITED STATES MINISTER:

I am here awaiting your instructions in reference to the demand of the Guatemalan Government to arrest a passenger, J. M. Barrundia, from my ship. If you can arrange it so this matter may be settled at San José, I would prefer it very much, because I can receive in that port your written orders, and also have better protection. I fear the passenger wanted will resist himself from leaving the ship, and there are several others on board who would probably help him to resist, which might make trouble in my ship. Please answer immediately.

Digitized by W. G. PITS.

[Inclosure 2 in No. 150.—Telegram.]

Minister Mizner to Captain Pitts.

GUATEMALA, August 27, 1890.

Capt. W. G. PITTS,
Champerico, Guatemala :

I am in receipt of your telegram of this date on the subject of the proposed arrest of J. M. Barrundia and think that Guatemala, like any other nation, has the right to arrest a person on a neutral ship in its own waters in time of war for any cause deemed an offense under international law. In this case it must be understood that life is not to be endangered or the person arrested punished for any other offense than that specified in the letter of the Guatemala Government addressed yesterday to Consul-General Hosmer. If, in your judgment, the lives or property of innocent persons will be endangered by submitting to the arrest in Champerico, it would be better to bring the person to San José without altering his status, and where protection can be had.

MIZNER.

[Inclosure 3 in No. 150.—Telegram.]

Captain Pitts to Minister Mizner.

[Received at telegraph office in Guatemala at 9:46 p. m.; received at this legation at 10 p. m., August 27.]

SAN JOSÉ DE GUATEMALA, August 27, 1890.

Mr. MIZNER,
United States Minister :

Shall I deliver General Barrundia to the authorities here? If so, please send me a letter with your signature to that effect.

W. G. PITTS,
Commander.

[Inclosure 4 in No. 150.—Telegram.]

Commander Reiter, U. S. S. Ranger, to Mr. Mizner.

[Received in telegraph office, Guatemala, at 8 p. m.; received at legation at 10 p. m.]

SAN JOSÉ DE GUATEMALA, August 27, 1890.

MIZNER,
United States Minister :

Barrundia expected in steamer. As peace is declared, I suggest that you ask Government to permit *Thetis* to take him to Acapulco, we acknowledging their municipal rights over steamer. Steamer *Acapulco* in sight.

REITER.

[Inclosure 5 in No. 150.]

*Mr. Mizner to Captain Pitts.*UNITED STATES LEGATION,
Guatemala, August 27, 1890—10:30 p. m.

SIR: If your ship is within 1 league of the territory of Guatemala and you have on board Gen. J. M. Barrundia, it becomes your duty, under the laws of nations, to deliver him to the authorities of Guatemala upon their demand, allegations having been made to this legation that said Barrundia is hostile to and an enemy to this Republic. Guaranties have been made to me by this Government that his life shall not be in danger or any other punishment inflicted upon him than for the causes stated in the letter of Señor Anguiano to Consul-General Hosmer dated yesterday.

I have, etc.,

LANSING B. MIZNER,
*United States Minister.*Capt. W. G. PITTS,
Commanding Pacific M. S. S. Co.'s steamship Acapulco.

[Inclosure 6 in No. 150.—Telegram.]

*Commander Reiter to Mr. Mizner.*SAN JOSÉ DE GUATEMALA, *August 28, 1890.*

Minister MIZNER:

Barrundia resisted arrest and was killed. No passengers or others injured. Letter with particulars to-morrow.

REITER.

[Inclosure 7 in No. 150.]

*Commander Reiter to Mr. Mizner.*U. S. S. RANGER, *August 28, 1890.*

DEAR SIR: On receipt of your telegram about 6:30 p. m., yesterday, I went ashore and sent one to you at 7 p. m. I requested the commandant to postpone action until I received a reply, which he declined to do. I waited until after 9 o'clock for a reply from you and believe that my dispatch did not go or that your reply was delayed, as I did not receive it until 9:30 this morning. Am sorry my reply was too late.

The commandant did not take any action last night, but did to-day. At about 2:30 we thought we heard firing on board the *Acapulco* and a few minutes after the Guatemalan flag was hauled down from the fore and the United States flag hoisted. I then thought you had come down and were on board, but learned later that it was intended to call assistance. Lieutenant Bartlett soon came on board from the *Acapulco* and reported that the commandant was on board of the *Acapulco*, and that promiscuous firing had been going on, and that the captain desired protection. I immediately started and was followed in a few minutes by Lieutenant Harris with an armed guard of marines. On arrival I found the commandant had left with the body of Barrundia, and that all was quiet; so I sent Lieutenant Harris back.

The following is as near as I could learn what occurred. When the commandant arrived on board he delivered your letter to Captain Pitts, and they both went to the captain's room, where it was read. The captain then sent the first officer, Mr. Brown, to send all cabin passengers below and to warn the steerage passengers to keep forward. The captain and commandant then went to Barrundia's room. They stood outside—one on each side of the door—while Barrundia was inside smoking a cigarette. The captain then told him of your letter, and that he could not afford him further protection. The commandant then said something to him in Spanish, to which Barrundia replied, "Bueno," when he quickly seized a revolver from the upper berth and fired two or three shots out of the door. The captain and commandant beat a hasty retreat aft and took refuge in a stateroom, followed by Barrundia firing wildly; he passed out to the port side of the deck, then forward across to the starboard side through social hall, then back through social hall, and turned to go forward on the port side, when he fell. It was impossible to point out just where the detectives were all the time; some say they were on the starboard side and first shot and wounded Barrundia when he appeared on that side; but the certain result was that he died where he fell, pierced by several bullets. He must have been terribly excited or scared not to have done any damage to his enemies, for he had everything his own way for a few moments.

I am sorry to hear that you have not been well since your trip to Acajutla, but hope you are all right again.

Commander Stockton returned yesterday. Everything is quiet at La Union and Amapala.

Very sincerely,

GEO. C. REITER.

HON. L. B. MIZNER,
United States Minister, Guatemala.

Mr. Hosmer to Mr. Wharton.

No. 243.]

CONSULATE GENERAL OF THE UNITED STATES,
Guatemala, August 29, 1890. (Received September 18.)

SIR: Concurrently with dispatch No. 150 of the minister of the United States, to which I beg respectfully to refer as continuing the history I am about to narrate, I have the honor to report that on Mon-

day morning, the 25th instant, during the absence of the minister of the United States at Acajutla, Salvador, I received a telegram from Mr. Florentine Souza, consular agent of the United States at Champerico, copy of which, with translation of the same into English, I inclose herewith, wherein it appears that the commandant of the port of Champerico states that Gen. J. M. Barrundia is a passenger on board of the steamer *Acapulco*, on his way to Salvador, charges him with high treason and other crimes against Guatemala, and requests permission to visit the vessel for his arrest and removal, the consular agent closing with the inquiry as to what he shall do in the matter.

I replied by telegraph to Mr. Souza, copy of which I inclose herewith, to the effect that I thought Guatemala had the right to search foreign vessels in her own waters for persons suspected of hostility to her during time of war, and that he was at liberty to communicate my opinion to the commandant.

On the following morning at about 10 o'clock I received a note from the President of this Republic asking me to call upon him at his house to converse about a matter of importance, copy of which note, with translation into English, I inclose herewith.

I called upon the President promptly in response to his request, and he recited to me in the interview a number of charges which the Guatemalan Government had against General Barrundia, with secret information, as he expressed it, that General Barrundia was on board of the steamer *Acapulco*, at that moment in the port of Champerico, en route to join the forces of Salvador against his own country. The President furthermore informed me that a copy of my telegram to Mr. Souza of the previous day had been shown to him, and he requested me to repeat it, in substance, by wire to Captain Pitts, commanding the steamer *Acapulco*.

I had received no information at that time when the minister of the United States would return, or that the bases for peace had been signed by General Ezeta on the part of Salvador. I accordingly promised to address a telegram to Captain Pitts immediately, which I did at the central office of telegraphs, and copy of which I inclose herewith.

On my return to this office a messenger from the foreign office brought to me a note from Señor Anguiano, minister for foreign relations, which, as will be observed in the copy and translation into English inclosed herewith, sets forth the reasons which inspire the Government of Guatemala in its desire to arrest General Barrundia and remove him from a vessel sailing under the American flag.

At the time I received this note I was informed that the minister of the United States would arrive in this capital at 2 o'clock of the afternoon. He did so, and on his arrival at this legation I reported to him at once all that had occurred in the matter which is the subject of this report.

About a quarter past 5 o'clock of the same day, and while I was on my way from this office to my hotel, I was met by a messenger of the telegraph office, who handed to me a telegram from Mr. Souza, containing the following words only: "Please answer Captain Pitts's telegrams as soon as possible."

On reading Mr. Souza's request, and not having received any telegrams from Captain Pitts, I proceeded at once to the central office for telegraphs, and upon inquiry found a clerk making a corrected copy of a telegram from Captain Pitts addressed to me, which I inclose herewith, the substance of which was that J. M. Barrundia had embarked on his ship at the port of Acapulco with a direct ticket for Panama, and

that he the captain would suggest that, as a guaranty for the ship and himself, the passenger Barrundia should be retained on board until arrival at San José, where Captain Pitts would place himself under the orders of the minister of the United States, and requesting me to submit the telegram to that official.

I replied at once to Captain Pitts in the following words: "Your telegram just received. Will submit same to United States minister for his answer."

Immediately after dinner I returned to the legation and submitted Captain Pitts's telegram and my reply as above to the minister of the United States, thus concluding all official action in the matter upon which I have herein reported.

I am, sir, etc.,

JAMES R. HOSMER,
Consul-General.

[Inclosure 1 in No. 243.—Translation.]

RETALHULEN, August 25, 1890.

CONSUL-GENERAL OF THE UNITED STATES OF AMERICA :

The commandant of Champerico has sent me the following communication :

"I have had notice that Barrundia intends to embark on one of the Pacific Mail steamers coming from the north as a passenger for Salvador, and, as he has been found with arms in hand against Guatemala, he has committed the offense of high treason and other crimes, as the public well know. I have the order of my Government to arrest the said Barrundia on the anchoring of the ship that brings him, for which reason I beg that you will please suggest to the captain to aid as best he may, so that said person can be delivered to me according to the law of nations, besides the extradition treaty for criminals ratified in 1870 between the Governments of Guatemala and the United States, which applies in the present case.

"I beg that you will please answer me for my present information, and I remain your obedient servant,

"AUGUSTIN PANIAGUA."

Accordingly, I beg that you will communicate to me instructions as promptly as possible, as it is thought that the steamer in which Barrundia is a passenger will arrive at Champerico to-morrow, and it is necessary to have your orders to know what I ought to do in this matter.

F. SOUZA,
Consular Agent.

[Inclosure 2 in No. 243.—Telegram.]

Mr. Hosmer to Mr. Souza.

GUATEMALA, August 25, 1890.

Señor DON F. SOUZA,

Agente Consular de los E. E. U. U. del Norte, Retalhulen, Guatemala :

United States minister absent. I think Guatemalan Government has right to search foreign vessels in her own waters for persons suspected of hostility to her during time of war and to arrest them. You may communicate this opinion to the commandant.

JAMES R. HOSMER,
United States Consul-General.

[Inclosure 3 in No. 243.—Translation.]

President Barillas to Mr. Hosmer.

GUATEMALA, August 26, 1890.

Gen. Manuel L. Barillas courteously salutes the Hon. Mr. James R. Hosmer and requests him to please come to his house for conversation upon an important matter.

[Inclosure 4 in No. 243.]

*Mr. Hosmer to Captain Pitts.*CHAMPERICO, GUATEMALA, *August 26, 1890.*

The Guatemalan Government has the right to search your steamer for any person or persons hostile to this Republic, and, if found, to arrest him or them. You will therefore please see that no obstacle is permitted to that right of search in accordance with the law of nations. The United States minister is not here, but is expected this afternoon.

JAMES R. HOSMER,
United States Consul-General.

Captain PITTS,
Captain of Pacific Mail Steamer Acapulco.

[Inclosure 5 in No. 243.—Translation.]

Minister Anguiano to Mr. Hosmer.

OFFICE OF MINISTER FOR FOREIGN RELATIONS OF GUATEMALA,
National Palace, Guatemala, August 26, 1890.

HONORABLE SIR: The captain of the steamer which anchored to-day in Champerico resists, as the commandant of the port informs me, to permit the arrest of Gen. J. M. Barrundia, who is aboard of that vessel. This Guatemalan general has not only in different ways attacked his country, Guatemala, but has armed himself against her, raising an armed faction on the Mexican frontier to invade her.

Barrundia landed a few days since in San Benito, a Mexican port, having arms with him, and when he put them in hands in Tapachula, and moving upon Guatemala, was arrested and deprived of his arms; finally, he dared to penetrate the territory of Guatemala, leading an armed faction.

The facts referred to, Honorable Sir, show the perfect right which exists in the Government of Guatemala, being in a state of war, to capture Barrundia on the steamer which is anchored in Champerico; for certainly the consul-general and secretary in charge of the business of the United States of America knows that every nation, being in war, can examine or inspect foreign vessels in its own waters and capture those simply suspected of being hostile.

Besides, by the contract which the Government made with the Pacific Mail Steamship Company, that company should not permit the bringing or taking to Guatemala, nor to the adjacent countries, any element of hostility in time of war, such as exists at this time.

Accordingly, I address myself to the honorable consul-general and chargé d'affaires of the United States that he will, if he thinks proper, give his directions by telegraph to the effect that the captain of the vessel referred to may not offer any resistance to the capture or arrest of the said Gen. J. Martin Barrundia.

With assurances of my high consideration, etc.

F. ANGUIANO.

Hon. JAMES R. HOSMER,
Secretary in Charge and Consul-General of the United States, present.

[Inclosure 6 in No. 243.—Telegram.]

*Captain Pitts to Mr. Hosmer.*CHAMPERICO, *August 26, 1890.* (Received in Guatemala 5:10 p. m.)

Hon. JAMES R. HOSMER,
United States Consul-General:

The passenger J. M. Barrundia embarked at Acapulco with a direct ticket for Panama. Under these circumstances, I would suggest, as a guaranty for my ship and myself, to hold the passenger on board until my arrival at San José, where I will place myself under the orders of the American minister. As you expect him this afternoon, please submit this to him and give me an answer.

Please ask Hockmeyer & Co. for the cipher word in the Pacific Mail code of my name, and insert the same in your answer. Please send man-of-war with your written orders, and avoid telegraphic orders, if possible. Answer.

W. G. PITTS.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 30, 1890.

Mr. Wharton states that Barrundia placed himself within the jurisdiction of Guatemala at his own peril, and it was for the authorities of Guatemala to assume jurisdiction at their own risk and responsibility. Department learns with regret that Mr. Mizner advised or consented to the surrender of Barrundia, particularly as there was no specific charge of violation of the ordinary law of Guatemala apparent and his treatment as an enemy under martial law only is alleged.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 2, 1890.

Mr. Wharton acknowledges the receipt of Mr. Mizner's telegram of the 1st instant, and informs him that he was instructed on the 30th of August that Barrundia entered the jurisdiction of Guatemala at his own risk, and it was for the Guatemalan authorities to assume jurisdiction at their own responsibility and risk; that the Department regretted his having advised or consented to the surrender, particularly as violation of the ordinary laws of Guatemala was not charged, and as the only allegation was that he was to be treated as an enemy under martial law.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Via El Paso, Tex., September 3, 1890.

Mr. Mizner reports the withdrawal of both armies from the frontiers and their rapid disbandment, the success of the officious mediation of the diplomatic corps, and the approval with which the country regards the course of that body. He adds that the intention is to declare peace the coming week.

Mr. Mizner to Mr. Blaine.

No. 151.] LEGATION OF THE UNITED STATES,
Guatemala, September 3, 1890. (Received September 18.)

SIR: In my No. 147 of the 27th ultimo it was stated that full details of the proposed arrangement for peace between Salvador and Guatemala could not then be given and asked your indulgence until the mail that goes north to-day.

I am constrained to ask further delay as to the full details until the diplomatic corps can prepare the very voluminous correspondence connected with the negotiations, so that there may be an exact agreement between us as to what was said and done. Of course, it will be in the Spanish language, requiring translation.

But, believing that you may desire to know the main and material circumstances, as well as results, I inclose the originals, with their translations herewith, namely, 1, the original bases as suggested by the diplomatic corps, by and with the advice and consent of Guatemala and Salvador, the latter State being represented here at the time by its plenipotentiary, Señor Galindo, who fully agreed, on behalf of the Provisional Government of Salvador, to the bases, including articles III and IV, as the best way, under all the circumstances, to restore constitutional government in that State.

On my arrival at Acajutla, in Salvador, in the U. S. S. *Ranger*, August 25, in company with Plenipotentiaries Castro, of Costa Rica, and Larios, of Nicaragua, and Minister Resident Arellano, of Spain, the Provisional President of Salvador objected to articles III and IV of the bases as an interference with the autonomy of that Republic, notwithstanding his envoy had consented thereto. There being no intention on the part of the diplomatic corps to so interfere, the explanatory note marked 2 was added to and made part of the bases.

Whereupon General Ezeta, the Provisional President of Salvador, accepted these bases as above explained and set forth in the papers marked 3 and 4.

Returning to Guatemala on the afternoon of August 26, a letter was addressed to the minister for foreign relations of this Republic, submitting the bases, as explained, for consideration and action, as set forth in the paper marked 5, which bases were promptly accepted by that minister, as will appear in the paper marked 6.

And at the same time a formal decree accepting the bases was signed and promulgated by the President, as will be noted in the paper marked 7.

Immediately thereafter the respective Governments of Guatemala and Salvador were notified and requested to comply with the terms of the bases, as will appear in the paper marked 8.

Accordingly, all the troops of the respective Republics have been withdrawn from their frontiers, and Guatemala and Salvador ceasing to be arrayed against each other, their armies being rapidly reduced to a peace footing, I was yesterday informed by the minister for foreign relations of Guatemala that peace would be declared as soon as the diplomatic corps should report that the terms of the bases had been complied with.

Honduras has been consulted and heartily coöperates with all that has been done in the premises.

In all these negotiations I have been especially careful to impress upon the belligerents and the members of the diplomatic corps that this is a friendly officious mediation only, avoiding in any manner interference with the autonomy of either Republic, and that joint action became necessary on account of imminent danger of immediate and terrific conflict between the contending armies, as well as the precedent established in 1885 during the invasion of Salvador by the late President Barrios.

I have the honor to be, etc.

LANSING B. MIZNER.

[Inclosure 1 in No. 151.—Translation.]

Authorized copy of the bases presented by the diplomatic corps accredited to Central America for the arrangement of peace between the Republics of Guatemala and Salvador.

Desiring to put an end, if possible, to the war which unfortunately exists between the Republics of Guatemala and Salvador, the undersigned, members of the diplomatic corps accredited to Central America, having been solicited to do so by the ministers plenipotentiary of Nicaragua and Costa Rica, believe that they can, by virtue of an officious mediation accepted by both belligerents, formulate the bases which, in their opinion, may afford a satisfactory solution for the reestablishment of the most perfect accord between two nations otherwise united by so many ties, and whose mutual and reciprocal friendship is so imperiously demanded by the universal fitness of things.

The character, therefore, of this mediation is consonant with the most absolute respect for the autonomy and independence of the States concerned; and the validity and force of these stipulations herein enunciated will depend exclusively and only upon their being freely and voluntarily accepted by both parties.

The bases for the reestablishment of peace between Guatemala and Salvador, for the purpose of thus normalizing a situation exceptional in the extreme and unforeseen by the provisions of international law, should be, in the judgment of the undersigned, as follows:

I. The withdrawal of both armies from the frontiers within the space of 48 hours after the contracting parties shall have been notified by the diplomatic corps that these bases have been ratified and accepted as a formal compromise between them.

II. The said armies to be disarmed so as to reduce them to the effective force required in time of peace, and likewise the army of Honduras shall be in the same manner placed on a peace footing. This disarmament to be simultaneous, and shall be certified to in Guatemala and in Salvador by two members of the diplomatic corps 8 days after the term shall have expired in which the retirement of the troops from the frontier shall be effected.

In conformity with this, it is solemnly agreed between the Governments of Guatemala, Honduras, and Salvador to prevent within their respective territories the formation of factions or other similar revolutionary proceedings directed against either of the other republics in question.

III. For the purpose of obviating the inconveniences presented by the situation in Salvador with respect to international relations, the political and military state of the Republic shall revert back to the 22d day of June of the present year, the supreme power being invested in the person called by law to exercise it during the period of 21 days, with the sole faculty of calling upon the people to hold presidential elections.

In case that, from any cause whatever, neither of the individuals designated by law for that purpose shall assume power, it shall be invested in the actual president of the supreme tribunal of justice of the Republic, with the same faculty ascribed to the person so designated by law.

The President elect shall be considered President *ad interim* from the date of his election until the 1st day of March, 1891, and as the constitutional President from the latter date until the expiration of his legal term of office, thus avoiding the disturbances consequent upon a new electoral struggle within so short a period.

IV. The retroaction of the politico-military condition to which reference is made in the preceding article shall have reference only to the calling of the nominees of the constitution, to the members of the supreme tribunal of justice, and to the general inspection of the army.

V. The presidential election having been held, and the President elect having taken possession of the Government of Salvador, shall be recognized by the States of Central America and, *ad referendum*, by all foreign powers that shall have representatives in Salvador.

VI. Complete and unconditional amnesty shall be granted in the Republics of Guatemala, Salvador, and Honduras to all who took part in the events that gave rise to the war or were in any way connected with it.

VII. The administration of the Government of Salvador having been legally constituted as far as possible under the existing circumstances, a treaty of peace shall be celebrated between the belligerent republics, which shall forever efface traces of the disagreements that have taken place between them, and which shall be a proof of the mutual respect and good will that each feels for the autonomy and independence of the other.

This treaty just mentioned must be celebrated within the period of 3 months at the latest, counting from the day on which the President elect shall take possession according to the arrangement set forth in these bases; and in it shall be specified and set forth the most complete and absolute renouncement of all claims for indemnity arising from the present war just concluded.

VIII. The present project or proposition shall be submitted to the knowledge of the Government of Honduras, in order that it may adhere to it; for, be it well understood that these bases concern that Republic, also, in all that may be for its benefit and advantage, in order that it may enter fully and completely in concert with her sister republics in peace and sincere friendship, in which all the Central American republics should be united.

IX. The belligerents shall report to this foreign diplomatic corps accredited to Central America within the limit of 5 days, without grace, counting from the date of these bases, whether they shall accept them or not; and the communication containing their report of acceptance shall be inserted, together with these bases, in the official daily of Guatemala (*Diario Oficial de la República de Guatemala*), of Salvador, and of Honduras, in order that, should they be in the affirmative, they may constitute a solemn compromise of honor to faithfully and sincerely carry them into effect.

And, in witness thereof, we hereby affix our signatures at the city of Guatemala, this 17th day of August, 1890.

LANSING B. MIZNER,
United States Minister.
JOSÉ MARIA CASTRO,
Minister of Costa Rica.
G. LARIOS,
Minister of Nicaragua.
L. REYNAUD,
Minister of France.
JULIO DE ARELLANO,
Minister of Spain.
ATE HALEWYCK,
Minister of Belgium.
ARTHUR CHAPMAN,
H. B. M. Chargé d'Affaires.
PAUL SCHMAECK,
Chargé d'Affaires of Germany.

[Inclosure 2 in No. 151.—Translation.]

Additional notes.

It having been understood by one of the belligerent parties that the third and fourth articles of the bases, dated the 17th of the present month, for declaring peace between Guatemala and Salvador, is an attempt against the autonomy of the latter, the dean, as well as the other undersigned members of the diplomatic corps, by order of and in the name of the said diplomatic corps, formally and solemnly make the following declaration, which must form an integral part of the foregoing bases:

In drawing up the third and fourth articles the diplomatic corps had no other object in view than that of setting forth in the interest of peace what was already the manifest will and pleasure of the Government *de facto* of Salvador, in accordance with the political programme set forth by its plenipotentiary, Señor Doctor Don Francisco E. Galindo, who subscribed to them without any reserve.

In consequence of which the diplomatic corps protest that the said articles III and IV do not involve, even remotely, the least intention of interference in any manner in matters that are the exclusive and competent right of Salvador to arrange.

LANSING B. MIZNER,
United States Minister.
JULIO DE ARELLANO,
Minister of Spain.
JOSÉ MARIA CASTRO,
Minister of Costa Rica.
L. REYNAUD,
Encargado de Negocios de Francia.
G. LARIOS,
Minister of Nicaragua.
PAUL SCHMAECK,
Chargé d'Affaires of Germany.
ARTHUR CHAPMAN,
H. B. M. Chargé d'Affaires.
AUGUSTO HALEWYCK,
Chargé d'Affaires of Belgium.

ACAJUTLA, SALVADOR, August 25, 1890.

[Inclosure 3 in No. 151.—Translation.]

In view of the bases of peace to which the preceding declaration refers, and in the interests of the same, I hereby ratify them, in conformity with, and in relation to, the answer given this day by the foreign diplomatic corps accredited to Central America.

CARLOS EZETA.

ACAJUTLA, SALVADOR, August 25, 1890.

[Inclosure 4 in No. 151.—Translation.]

Notes exchanged in connection with the restoration of peace.

PROVISIONAL GOVERNMENT OF THE REPUBLIC OF SALVADOR,
Acajutla, August 25, 1890.

MOST EXCELLENT SIR : In view of the addition that the honorable diplomatic corps has been pleased to make to the bases of peace between the Republics of Salvador and Guatemala, which is very satisfactory to my Government, inasmuch as it is therein declared that the idea was not even remotely entertained of interference in the internal arrangements of this Republic, it gives me much pleasure to inform Your Excellency that the Government over which I preside ratifies the said bases, with the sole exception of the third and fourth articles, which I will submit to the consideration of the National Assembly, which I shall convoke in order that they may dispose of them as they see fit, as the most competent authority to represent the National Government.

It is my duty to add, Most Excellent Sir, that if it depended solely upon me to approve at once and absolutely, without reserve, the foregoing bases, I would do so with the greatest pleasure, with the sole purpose of promoting peace and to demonstrate that in taking the lead in the revolutionary movement of the 22d of last June, I did not do so in the hope of satisfying personal ambitions, but to secure for my country an administration more in harmony with national aspirations; but, being unable to do this, as I have already heretofore remarked, I find myself under the necessity of submitting to the more competent decision of the representatives of the Republic of Salvador.

I avail myself of this occasion to assure Your Excellency and the diplomatic corps over which you so worthily preside that my Government and its official representatives entertain the most lofty appreciation of your noble efforts and those of your colleagues to restore peace between nations that may have forgotten for a moment that they are sisters.

Besides, my Government being satisfied with the latest declaration of the diplomatic corps, of which in the beginning I expressed my appreciation, it is pleased thus to modify its reply of the 21st of August instant.

I reiterate, etc.,

CARLOS EZETA.

MR. LANSING B. MIZNER,
Dean of the Diplomatic Corps accredited to Central America, present.

[Inclosure 5 in No. 151.—Translation.]

Notes exchanged on account of peace.

GUATEMALA, August 26, 1890.

SIR : As the organ of the diplomatic corps over which I have the honor to preside, I beg to send to Your Excellency the arrangement for a basis of peace between Guatemala and Salvador ratified by General Ezeta. As Your Excellency will observe in said ratification, there is a reservation to submit the third and fourth articles to the consideration of the General Assembly, which will be convened for that purpose.

In expressing his ideas on this point, General Ezeta and his plenipotentiaries, with elevated views worthy of encomiums, stated in terms leaving no doubt that the reunion of the Assembly would be immediate.

With high consideration, I have, etc.,

LANSING B. MIZNER,
United States Minister.

His Excellency Señor Doctor Don FRANCISCO ANGUIANO, etc.,

Present.

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[Inclosure 6 in No. 151.—Translation.]

Señor Anguiano to Mr. Mizner.

GUATEMALA, August 26, 1890.

SIR: I have the honor to acknowledge receipt of Your Excellency's favor dated to-day in this city, in which Your Excellency is pleased to acquaint me that, as organ of the honorable diplomatic corps, of which you are the dean, you transmit to me the bases of a peace to be concluded between this Republic and that of Salvador, bases which have been ratified by General Ezeta with one reservation, to-wit, that articles 3 and 4 shall be submitted to an assembly to be convened for that purpose. Your Excellency adds that the expressions of General Ezeta and his plenipotentiaries, in conference with the members of the honorable diplomatic corps, leave no doubt as to the immediate convening of said assembly.

It gives me great satisfaction to acquaint Your Excellency, in reply, that the President of the Republic has ratified the bases referred to, with the reservation made by General Ezeta, it being the belief of my Government that the noble aspirations of the Guatemalan people will thus be satisfied, which are the same as those by which he is himself animated—that constitutional order may be established in the neighboring and sister nation of Salvador, unhappily interrupted by the events of the 22d of June.

This pacific solution of the existing difficulties between the two nations insures, according to the belief of the Guatemalan Government, the general welfare of Central America, and can not but be gratifying and acceptable, therefore, to the administration over which General Barillas presides.

The latter high functionary has instructed me to present his heartfelt thanks to the honorable diplomatic corps, of which you are the dean, for the friendly offices lent by it in this emergency to Guatemala and to all Central America in the generous and active part which it has taken in the establishment of peace, so full of benefit to both nations.

I avail myself,

F. ANGUIANO.

[Inclosure 7 in No. 151.—Translation.]

OFFICE OF THE SECRETARY OF FOREIGN RELATIONS,
National Palace, Guatemala, C. A., August 26, 1890.

MOST EXCELLENT SIR: I have the honor to transcribe and transmit to Your Excellency the decision in which the Señor General President ratifies the bases of the articles of peace drawn up between this Republic and that of Salvador, as follows:

“NATIONAL PALACE, *Guatemala, August 26, 1890.*

“The bases for the arrangement of peace between Guatemala and Salvador formulated by the diplomatic corps accredited to Central America, by virtue of an officious mediation, having been presented before me; bases accepted and ratified yesterday in the port of Acajutla, Salvador, by Gen. Don Carlos Ezeta, chief of the Government *de hecho* of Salvador:

“Duly appreciating the elevated and philanthropic motives that have impelled the honorable diplomatic corps to offer their friendly mediation and labors inquest of the reestablishment of peace in Central America, and the Government of Guatemala desiring to give a proof of its frank disposition to arrive at the same result, now that the bases subscribed to comply with the requirements that obliged her to mobilize a portion of the army of the Republic, the President accords:

“(1) To ratify in all their parts the bases referred to.

“(2) The minister of war shall take the necessary steps for retiring and disarming the forces in the manner prescribed.

“Let it be communicated.

“Rubricated by the Señor General President.

With the highest consideration and esteem, etc.,

“ANGUIANO.”

F. ANGUIANO.

His Excellency Señor Don LANSING B. MIZNER,
*Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and
Señors Members of the Diplomatic Corps, present.*

[Inclosure 8 in No. 151.—Translated.]

GUATEMALA, August 26, 1890.

SEÑOR MINISTER: The bases for the regulation of peace between the Republics of Guatemala and Salvador having been signed and ratified by Gen. Don Carlos Ezeta, chief of the Government *de facto* of the latter Republic, it is now in order to proceed to the exact fulfillment of the agreement, and next Thursday, the 28th of the present month, the withdrawal of both armies from the frontier shall begin, so that the disarming of the troops can be effected within the limit of time specified in the said bases.

A communication of the same tenor and date as the present is at this moment being directed to the Government *de facto* of Salvador, and we request Your Excellency to do the same respecting the Republic of Honduras, in order to comply with the conditions of said bases.

The diplomatic corps accredited to Central America congratulates the Republic of Guatemala, and entertains the most fervent wishes for the prosperity and success of this most highly favored land.

LANSING B. MIZNER.
 JOSÉ M. CASTRO.
 G. LARIOS.
 JULIO DE ARELLANO.
 L. REYNAUD.
 ATE HALEWYCK.
 ARTHUR CHAPMAN.
 PAUL SCHMAECK.

His Excellency the Minister of Foreign Relations,
 Señor Doctor DON FRANCISCO ANGUIANO, *present*.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
 Washington, September 3, 1890.

Mr. Mizner is instructed to make a full report in writing respecting the attempted arrest of Barrundia, presenting all the facts possible to obtain as to what happened on the vessel. He was also to obtain the affidavit of the captain.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
 Guatemala, September 4, 1890.

Mr. Mizner states that General Barrundia was charged with being an enemy to Guatemala; with having threatened an invasion of the country from Mexico, whereupon he was disarmed by the Mexicans; with having actually later invaded the country; with the guilt of high treason and other crimes; with being en route to Salvador in time of war. He adds that the Pacific Mail Steamship Company violated article seventeenth of its contract with Guatemala in carrying Barrundia and gives notice of the sending of a complete report.

Mr. Mizner to Mr. Blaine.

No. 158.]

LEGATION OF THE UNITED STATES,
 Guatemala, September 9, 1890. (Received September 25.)

SIR: I have the honor to acknowledge the receipt of your instructions by telegram of the 3d instant, which was received by me per steamer from La Libertad on the 6th instant.

Anticipating these instructions, I had the honor to make a report to you as full as possible in my dispatch No. 150 of August 29, 1890, concurrently with that of Consul-General Hosmer's No. 243 of the same date. If any additional facts, however, come to my knowledge in relation to the same matter, I shall promptly make you acquainted with them, and shall obtain an affidavit of facts from Captain Pitts, commander of the Pacific Mail steamer *Acapulco*, when that vessel returns to the port of San José.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 159.] LEGATION OF THE UNITED STATES,
Guatemala, September 10, 1890. (Received September 25.)

SIR: In acknowledging the receipt of your instructions numbered 143 of the 5th ultimo, with its inclosures of copies of telegrams and correspondence, I have the honor to add, on the subject of the seizure of certain arms by the Government from the steamer *Colima*, that, if the agreement made in my presence by the agents of the company and the Government had been carried out, it would have ended the matter, as they admitted that the case was provided for in article 17 of that contract. But the neglect of this Government, or the conduct of the commandant of the port of San José in seizing the arms at the time they were about to be transferred from one ship to the other, has caused the trouble, as it will be noticed that on the 18th of July and prior to 8:15 a. m. of that day, he, the commandant, had, "in view of the instructions he had received," given the agent of the steamer permission to transfer the property, and while it was being so transferred captured it (see inclosure No. 1), the patron or captain of the launch apparently acting under commandant's orders.

His threat to sink the ship if the attempt to get under way was made, and to possess himself of the arms "some way or other," and his neglect to officially deliver the arms to the steamer *San Blas* as hereinafter stated, places this officer in such an attitude towards us, especially as his acts have been, in substance, disavowed by his Government, that I had conceived it to be my duty to ask his removal from any civil or military position which might bring him in contact with our ocean commerce, and I had a letter to that effect partly written when your instructions caused me to await further advices.

It will be noticed as a coincidence that, while Señor Sobral appealed to me on the subject of delaying the arms on the 15th of July and I telegraphed to you for him on the 16th, on the next day, the 17th, a large Krupp gun was moved from this city to San José and placed in position there, as reported in my No. 122 of the 19th of July.

It was finally understood that the arms should be put on the first mail steamer going north, which, in this instance, was the *San Blas*, the same commandant who took them from the *Colima*, to go aboard in uniform and officially deliver them to the captain of the *San Blas*, with invoices and explanations and such other formalities as might be usual and proper in such cases. All of this the commandant neglected to do. The arms were received on board of the *San Blas* on the 31st ultimo, unaccompanied by any officer or representative of the Govern-

ment, or any invoice, explanation, or direction whatever; hence the letter I was about to write, above referred to.

The memorandum of an interview with Señor Anguiano held on the 20th ultimo, made by Mr. F. C. Sarg, who went with me to the end that there might be no misunderstanding in the matter, goes herewith as inclosure No. 2.

The *Colima* was not detained beyond her usual hour for departure, and the arms referred to were consigned to the minister of war of Salvador.

Your telegram of July 20 apropos of this matter, which forms one of the inclosures in your instructions to which I have now the honor to acknowledge, has never reached this office.

I have, etc,

LANSING B. MIZNER.

[Inclosure 1 in No. 159.]

Mr. Long to Mr. Mizner.

PACIFIC MAIL STEAMSHIP COLIMA,
San José Roadstead, Guatemala, August 6, 1890.

SIR: Referring to our conversation of this date, as requested, I herewith send you a plain statement of the occurrences at this port on the 17th and 18th of July last past.

I arrived here and anchored at 5:30 a. m., July 17; shortly after the commandant of the port visited me in my room. He inquired about a shipment of arms and ammunition consigned to the minister of war, of Salvador. I admitted that such were on board. He claimed that we had violated article 17 of the contract between the Pacific Mail Steamship Company and the Government of Guatemala. Having a copy of said contract on board, he read the article referred to and then admitted there had been no violation. He then demanded the arms and ammunition referred to above as contraband, Guatemala and Salvador at the time being hostile. I refused to surrender the arms and ammunition above referred to until I had communicated with Mr. J. H. Leverich, the special agent of the Pacific Mail Steamship Company at this time in the city of Guatemala.

He then told me that he would not permit the ship to leave under any circumstances until he had possession of the arms and ammunition referred to, and warned me not to undertake to get under way, as he would hold the ship by his artillery, and, if necessary, sink the ship; that by some means or other he intended to have those arms and the ammunition. He notified me, also, that the Government had supervision of all messages going over the wires, at the same time giving me permission to communicate with Mr. Leverich concerning the matter. I did so, and later in the day received a telegram from Mr. Leverich stating that he had telegraphed to the New York office of the Pacific Mail Steamship Company for instructions. Towards evening I received a second message from Mr. Leverich instructing me to transfer arms for Salvador to Pacific Mail steamship *City of Sydney* for storage at Acapulco.

Early in the morning of July 18 I received from Mr. R. L. Jones, subagent of the Pacific Mail Steamship Company at San José de Guatemala, notification that official order had been issued permitting the transshipment as above referred to.

On the strength of the telegraphic instructions and notification of official permission of the Guatemalan Government, at 8:15 a. m., July 18, I discharged 20 cases of Winchester rifles and 25 cases of cartridges, comprising the shipment consigned to the minister of war of Salvador, into the launch alongside for delivery on board the Pacific Mail steamship *City of Sydney*, at anchor about 125 yards from the *Colima*.

As the launch left the ship, the *patron* of the launch signaled to the town with a red silk handkerchief, and the crew of the launch delayed as much as possible. Before the launch had made half the distance between the two ships, a boat manned by a uniformed crew, with an officer in charge, drew up alongside the launch and directed it toward the pier. I saw the arms and ammunition hoisted from said launch to the pier.

Inclosed please find all the correspondence referred to.

I was informed by our agent at the port that during our stay at the port at the time referred to the ship was covered by two pieces of artillery, one piece of which we could see from the ship.

Very respectfully,

J. S. LONG,
Commanding Pacific Mail Steamship *Colima*.

[Inclosure in J. S. Long's letter.]

Mr. Toriello to Agent Pacific Mail Steamship Company.

PORT OF SAN JOSÉ, July 18, 1890.

SIR: In view of the instructions which I have received, you can order the transshipment from the steamer *Colima* to the steamer *Sydney* of the 20 boxes of arms and 25 of cartridges which came from San Francisco for the ports of the Republic of Salvador.

I am, etc.,

E. TORIELLO.

[Inclosure 2, in No. 159.]

Memorandum.

On August 20, 1890, I waited on the United States minister by appointment at 11:30 a. m. Mr. Mizner desired me to accompany him to the office of the minister of foreign affairs with regard to a final settlement of the arms question, as he considered my knowledge of the Spanish language might be useful, and it was agreed that I should join him as interpreter.

He informed me that some 4 or 5 days previously he had addressed a personal demand of restitution of the arms to Minister Anguiano, and that he had received no other reply than an invitation from that gentleman to call at his office to-day at 1 p. m.

I proceeded to the palace with Mr. Mizner, who commenced the conversation with Mr. Anguiano through me, desiring to hear what the Guatemalan Government proposed to do in the matter; to this Mr. Anguiano replied with a frank acknowledgment that his Government had been in the wrong, and that he personally, being most anxious to arrange and settle the difficulty, had already given orders to repack the arms and ammunition with all speed, with the intention of sending them down to the port for delivery to Pacific Mail steamer to-morrow. After some conversation Mr. Mizner suggested that Mr. Anguiano should send him a formal written reply to the above-mentioned demand, covering the following points:

(1) The Government of Guatemala to declare that it had no intention whatever to offend the Government or flag of the United States, and to express its regrets. (Note: Other terms were also used, i. e., "to offend the susceptibilities," "to hurt the feelings.") Reference was also made to the fact, that the commandant had acted in the seizure on his own responsibility, and not by order of the Government; furthermore, the Government was stated to have looked upon the seizure as a matter of minor importance, as it had not taken place on one of the steamer's boats, but on a launch belonging to the Agency Company. Mr. Mizner also referred to the trick played on the Pacific Mail agent, the commandant having sent a written authorization to transfer the arms from one vessel to the other only a few minutes before the launch was captured.

(2) The Government of Guatemala declares itself ready and willing to return the arms, having, in fact, already taken the necessary steps to have them sent down to San José, where they will order the commandante to make delivery on board of such steamer of Pacific Mail Company as the United States minister shall designate, bound north. (Note: Mr. Anguiano stated that to the best of his belief the arms were complete, but he did not know how it was with the ammunition; anyhow, he assured Mr. Mizner that not a single cartridge would remain in Guatemala belonging to that shipment. He acknowledged that the police had used the arms and drilled with them, but did not remember for certain whether any cartridges had been used, although he appeared to think it probable.)

(3) The Government of Guatemala to declare that the foregoing reparation made to the United States does not affect or vitiate any claims that may be pressed on behalf of the carriers, or the consignees, or other parties interested in the arms and prejudiced by their seizure. (Note: Mr. Mizner repeatedly pressed this point on Mr. Anguiano's attention so as to make it perfectly clear to him. Mr. Anguiano stated of his own accord that his Government acknowledged its obligation in this respect, and that it would be willing to allow just claims. He furthermore stated his willingness to have an examination of the arms made before shipment, by a Guatemalan officer jointly with the armorer of one of the United States ships now on the coast, so as to obtain trustworthy evidence as to their condition when returned to Pacific Mail Company.)

Mr. Mizner finally requested Mr. Anguiano to send him his reply as soon as convenient, as he was desirous of communicating the settlement of the arms question to the State Department at Washington immediately.

GUATEMALA, August 20, 1890.

Digitized by F. C. SARG

Mr. Mizner to Mr. Blaine.

No. 160.]

LEGATION OF THE UNITED STATES,

Guatemala, September 10, 1890. (Received September 25.)

SIR: I have the honor to acknowledge the receipt of your instructions numbered 146 and 147 of the 6th of August last, the first containing eight copies of telegrams and the second fourteen copies, the same being to and from the Department of State and this legation, and also to and from the legation in Mexico.

Such as have not been hitherto confirmed or acknowledged by me are valuable in completing the files of this legation.

Referring to my No. 144 of August 20 last, and to Mr. Ryan's telegram to you of the 28th of the same month, being inclosure No. 6 in your instructions numbered 146, I may state that it is well known here that copies of all telegrams to and from the different legations are first submitted by the operators to, and inspected by, the Government.

Señor Girola, minister in Salvador, must be mistaken when he states that there has been no detention or interruption in that Republic, as our consul was not permitted to cable to his Government or to this legation last month, except in a restricted manner, and the operator at La Libertad informed me that sentinels were placed at his door to control the cable business.

The Spanish minister in Guatemala states that for three weeks in July he could hold no communication with his Government, and, I believe, the other foreign representatives had the same experience.

These Governments own the wires on land, and, it is said, claim the right of inspection.

Your important telegraphic instructions of the 20th of July, of which you send a copy as inclosure No. 5 in No. 143, demanding instant release of *Colima* and cargo, never reached me.

Please send the cipher copy by mail, so that I can trace the matter of its detention here, if possible.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 161.]

LEGATION OF THE UNITED STATES,

Guatemala, September 10, 1891. (Received September 25.)

SIR: I have the honor to inform you that the bases of peace accepted and agreed upon by Salvador and Guatemala have been now fully complied with. The armies have been withdrawn from their respective frontiers and reduced to a peace footing. Peace will be declared in a few days hence.

The detailed statement of the bases referred to in my No. 151 is now in the hands of the printers and will not be ready for several days. It was deemed more convenient to have it printed. Copies will be sent to you as soon as possible, followed by translation, if required.

The settlement gives very general satisfaction, and the diplomatic corps is complimented from all quarters.

I have, etc.,

LANSING B. MIZNER.

Mr. Wharton to Mr. Mizner.

No. 170.]

DEPARTMENT OF STATE,
Washington, September 10, 1890.

SIR: Your No. 141 of the 18th of August last, in relation to the seizure of the United States consulate in the city of San Salvador by the troops of the Provisional Government during the battle there on the 30th and 31st of July last, has been received.

The Government of the United States can but appreciate the good disposition of the Provisional Government of Salvador in the steps taken to reinstate the consul in his office as described.

Consul Myers will be instructed to furnish you with a statement of the damages done to his own property and to that of the consulate; but, in the expectation that due reparation will spontaneously be made for the injuries incurred, a consideration of the otherwise pressing question of securing proper compensation will be deferred.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, September 11, 1890.

Mr. Mizner telegraphs through Mr. Ryan, announcing the complete compliance with the bases of peace and the disbandment of the armies, and stating that the presence of the vessels of war are no longer required.

Mr. Wharton to Mr. Mizner.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 12, 1890.

Mr. Wharton requests Mr. Ryan to telegraph to Mr. Mizner that this Government is much gratified to learn of the complete compliance by the two belligerent powers in Central America with the bases of peace and of the disbanding of the two armies, and to instruct him to express the earnest wishes of the United States for continued friendliness between Guatemala and Salvador and for their undisturbed prosperity.

The Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,
Washington, September 13, 1890.

SIR: I have the honor to transmit herewith, for your information, copy of letter dated San José de Guatemala, August 28, 1890, from the commanding officer of the U. S. S. *Ranger*, informing the Department

of the acceptance of terms of peace by the Governments of Guatemala and Salvador, and the return of arms and ammunition seized from the Pacific Mail steamship *Colima*; also containing an account of the death of General Barrundia on board the *Acapulco*.

Very respectfully, your obedient servant,

B. F. TRACY,
Secretary of the Navy.

The SECRETARY OF STATE,
Washington, D. C.

Lieutenant-Commander Reiter to the Secretary of the Navy.

U. S. S. RANGER,
San José de Guatemala, August 23, 1890.

SIR: I have the honor to report that the diplomatic corps at Guatemala having decided upon a basis for peace which, it was supposed, would be acceptable to the Governments of Guatemala and Salvador, and it being necessary that Señor Galindo, the envoy from Salvador, should convey to his Government this agreement, and that an answer be received before 6 p. m., 23d instant, at the request of United States Minister Mizner, there being no public conveyance available, I consented to send Señor Galindo to Acajutla in the *Thetis* and to bring back from there a commissioner within the time specified.

Señor Galindo left here on the *Thetis* on the evening of the 18th instant and was landed in Acajutla on the following morning, after which the *Thetis* proceeded to La Union and Amapala.

I went ashore on the evening of the 18th instant to meet Señor Galindo and take him on board the *Thetis*, when I found that his baggage had been seized and overhauled, and that the commandant had given orders that he should not be permitted to embark. On inquiry, I found that Señor Galindo was provided with a passport from the Guatemalan Government, which, on the arrival of the train at San José, was presented to a sentry and by him taken away.

I immediately sent the United States consular agent to inform the commandant of this fact, when he gave orders for the release of the baggage and permitted Señor Galindo to embark.

In consequence of this, I proceeded to the city of Guatemala the following morning, related the circumstances to the United States minister, and requested him to accompany me to the minister of foreign relations of Guatemala, to inform him of this action on the part of the commandant at San José, and that I would not go to Acajutla without the guaranty of the Guatemalan Government that anyone whom I might bring back as envoy from Salvador should be courteously received and not molested in any way; which guaranty was immediately given.

On the night of the 19th instant I proceeded to Acajutla, and sailed from there on the morning of the 22d instant, but without any envoy or commissioner. Señor Galindo, who came on board, handed me dispatches for the United States minister, which I received and delivered to him at 10:30 a. m., 23d instant, having arrived at San José at 4:30 a. m. and taken a special train from San José for the capital at 6 a. m.

The diplomatic corps was immediately convened to consider the terms submitted by Salvador, and at about 2 p. m. the United States minister informed me that in the opinion of the entire diplomatic corps, except himself, the Government of Guatemala should not be informed of the answer of Salvador, on the ground that it would give the Government of Guatemala an unfair advantage, there being a tacit understanding of an armistice until 6 p. m. of that day.

The United States minister then submitted to me the original basis of agreement and the reply of Salvador, and requested my opinion in the matter. I informed him that, as the armistice was to cease at 6 p. m., I did not think there could be any advantage on either side, as prudent commanders would be prepared for active operations at its expiration, and that the Government of Guatemala should be informed at once and given the opportunity to accept or decline the terms submitted by Salvador. This was done; an armistice was agreed upon until the evening of the 27th instant., and it was decided that the ministers of the United States, Spain, Costa Rica, and Nicaragua should go to Acajutla to confer with the Provisional President, Ezeta, on the 25th instant.

At the request of the United States minister, I conveyed these ministers to Acajutla, whence after a day's conference with Provisional President Ezeta, I returned with them to this port, San José, arriving at 8 a. m., 26th instant.

The minister proceeded by special train at 9 a. m. to the city of Guatemala, and on the 27th I received the following telegram from United States Minister Mizner: "Peace bases accepted and signed by both nations. Belligerents notified and notice acknowledged. Armies to retire in two days."

Referring to the last paragraph of my letter of the 14th instant, I have to report that on the 17th instant a demand for the immediate return of the arms and ammunition taken from the Pacific Mail steamship *Colima* was made by the United States minister.

During my conversation with the United States minister on the 19th instant, heretofore referred to, he informed me that in reply to his demand for the return of the arms he had received a letter from the minister of foreign relations of Guatemala requesting a personal interview at 1 p. m., 20th instant, and asked my opinion.

I told him that as no reply had been received to several requests for the return of these arms, and as he had made a peremptory demand for their immediate return, I thought he should decline this personal interview and inform the minister of foreign relations that he desired a written reply to his last communication on the subject.

When about leaving the minister of foreign relations after our interview in regard to the Salvadorian envoy, he referred to his letter to the United States minister, asking if it had been received. Mr. Mizner replied that it had, but that he must decline a personal interview on the subject. The minister of foreign relations then expressed the greatest regret at the seizure and for the discourtesy of his predecessor in not replying to the minister's communication, and his willingness to return the arms at once.

The United States minister thereupon consented to a personal interview the next day for final arrangements for return of the arms.

The arms are now at San José, ready for shipment on the next steamer bound north on the 30th instant.

At about 6:30 p. m. yesterday, 27th instant, I received the following telegram from United States Minister Mizner:

"General Barrundia is on the *Acapulco*. Guatemala alleges that he is hostile, and, being in their waters, they can arrest him. I think that they have the right."

As the *Acapulco* was at this time reported in sight, I immediately went on shore and sent the following telegram to the United States minister:

"Barrundia expected in steamer. As peace is declared, I suggest that you ask Government to permit *Thetis* to take him to Acapulco, we acknowledging their municipal rights over steamer. Steamer *Acapulco* in sight."

I also requested the commandant to suspend action until I received a reply to this telegram, which he declined to do, but went on board the steamer and returned without attempting the arrest of Barrundia.

This morning at 9:30 I received the following telegram from United States Minister Mizner:

"This Government declines offer to take Barrundia away in *Thetis*. Have advised Captain Pitts to deliver him."

At about 2 p. m. it was thought that a number of shots were heard on board the *Acapulco*, and at 2:15 the Guatemalan flag was hauled down from the fore and the United States flag hoisted in its stead, when I supposed the United States minister was on board. But at 2:30, when the whaleboat came alongside with Lieutenants Bartlett and Halsey, who had been visiting the *Acapulco*, Lieutenant Bartlett reported to me that the commandant was on board, and that promiscuous firing had been going on on board the ship, and that they desired protection, the United States flag at the fore having been hoisted to signify that desire. I immediately left the ship in the gig to go alongside the *Acapulco*, and ordered Lieutenant Harris to follow me at once with an armed party of marines in the whaleboat. On my arrival on the *Acapulco* I found all quiet and no necessity for any protection, so that on arrival of Lieutenant Harris a few moments afterwards I directed him to return to the *Ranger*.

The following is, as near as I could determine from the statements of Captain Pitts and First Officer Brown, of the *Acapulco*, the correct account of what occurred on board:

The commandant came alongside with two boats and went on board the *Acapulco* with three or four detectives.

Captain Pitts asked him if he had a letter for him. He replied that he had and delivered it to him. They then went to the captain's room, where the letter was opened and read.

It was from United States Minister Mizner informing Captain Pitts that, if he were within the marine league of the shores of Guatemala and General Barrundia were on board, it was his duty, under the law of nations, to surrender him upon proper demand.

Captain Pitts took the precaution to send his first officer to notify the cabin passengers to go below into the dining saloon and the steerage passengers to keep forward.

He then went with the commandant to the stateroom on the hurricane deck occupied by General Barrundia, where they found him standing up smoking a cigarette. They remained outside, one standing on either side of the door.

The captain informed General Barrundia of the letter received from the United States minister, and that he could not extend him any further protection. The commandant then had some conversation with General Barrundia in Spanish. General Barrundia said "Bueno," and immediately reached for a revolver, which was concealed under a mattress in the upper bunk, and fired two or three shots through the doorway between them. The captain and the commandant beat a hasty retreat aft, taking refuge in an unoccupied stateroom.

They were followed by Barrundia, firing wildly. He stopped and fired several shots into the stateroom where the captain and commandant were concealed.

He then apparently ran forward and crossed through the "social hall" to the starboard side, where he fired forward and aft, then crossed to the port side again and started forward, when he fell.

The detectives, as near as I could determine, ran out of the "social hall" and forward when Barrundia first commenced firing, but some time during the melee, returned and began discharging their revolvers at him. It was impossible to ascertain definitely any details of the occurrence after this; but General Barrundia died where he fell, having been pierced by several bullets.

His body was taken on shore by the commandant.

The *Thetis* returned to this port yesterday morning, the 27th instant, and Lieutenant-Commander Stockton reports everything quiet at La Libertad, La Union, and Amapala.

The health of officers and crew is very good.

I am, sir, very respectfully,

GEO. C. REITER,

Lieutenant-Commander, U. S. Navy, Commanding.

Commodore F. M. RAMSEY, U. S. N.,

Chief of Bureau of Navigation, Navy Department, Washington, D. C.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, September 14, 1890. (City of Mexico, September 15, 1890.)

Mr. Ryan states that a telegram from Minister Mizner asks him to telegraph the Department that the old Salvadorian National Assembly unanimously elected Gen. Carlos Ezeta Constitutional President of the Republic until March first next.

Mr. Wharton to Mr. Mizner.

No. 174.]

DEPARTMENT OF STATE,
Washington, September 15, 1890.

SIR: The Department has received your No. 147 of the 27th ultimo, in which you repeat the instructions sent you relative to the employment of the concurrent good offices of the United States and Mexico to bring about peace in Central America.

The desired peace having already been secured prior to the occurrence of an opportunity to act on those instructions, the telegram of the 19th ultimo, which you quote, is no longer of special pertinence.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Mizner to Mr. Blaine.

No. 165.]

LEGATION OF THE UNITED STATES,
Guatemala, September 17, 1890. (Received October 3.)

SIR: As directed by your telegram of the 12th instant, I sent Mr. Hosmer, secretary of legation, to the port of San José yesterday for the purpose of taking the affidavit of the captain of the steamer *Acapulco* in the matter of the attempted arrest of General Barrundia, and to obtain such other evidence as may be proper.

As Mr. Hosmer may not return in time to send the affidavit by to-day's mail, I write this note to say that there will be no unnecessary delay, and that by next Wednesday I will forward to you all the evidence obtained, which, together with the consul-general's dispatch No. 243 and my No. 150, will make a complete history of the affair.

The case is a much stronger one than that of Gomez, of Nicaragua, passed upon in favor of the right to arrest in Mr. Bayard's No. 226 to Mr. Hall of March 12, 1885, in that in the present case a state of war existed and the passenger was en route to the country of the enemy, distant only 90 miles.

I have the honor to be, etc.,

LANSING B. MIZNER.

Mr. Wharton to Mr. Mizner.

No. 177.]

DEPARTMENT OF STATE,
Washington, September 18, 1890.

SIR: Mr. Henry R. Myers, consul of the United States at San Salvador, having temporarily quitted his post on account of ill health and gone to his home in South Dakota, writes thence to the Department, under date of the 8th instant, in relation to the recent attack upon the consulate and the reparation accorded, upon your demand, by the Provisional Government of Salvador. In the course of his communication, and referring to the interval between the attack and the restitution of the flag, Mr. Myers makes the following statement:

I was prohibited from sending any report of the true condition of affairs to you [this Department] or to Minister Mizner, and I was further refused a pass to leave the country, except on the condition that my exequatur should be recalled at the same time, thus being cut off from all communication with my Government, and was practically a prisoner in the country.

It is desirable that the allegation of Mr. Myers be investigated. It is confidently assumed that the Provisional Government of Salvador, having so frankly and promptly made due amends for the injury to the consulate and to the flag of the United States, will take proper action in respect to any Salvadorian authority who may be ascertained to have prohibited Mr. Myers's correspondence with his superiors or refused him a pass to leave the country.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, September 21, 1890. (City of Mexico, September 21, 1890.)

Mr. Ryan states that a telegram from Minister Mizner asks him to telegraph the Department that peace and order reign in Guatemala, and that his (Mr. Mizner's) next dispatch will conclude the history of the case of General Barrundia.

Mr. Mizner to Mr. Blaine.

No. 170.]

LEGATION OF THE UNITED STATES,
Guatemala, September 23, 1890. (Received October 9.)

SIR: Referring to my dispatch No. 150 of the 29th of last month, and to Consul-General Hosmer's No. 243 of the same date, and to all their inclosures, and referring, also, to my No. 158 acknowledging the receipt of your cipher telegram of the 3d instant, requesting me to obtain the affidavit of the captain of the Pacific Mail Steamship Company's steamer *Acapulco*, and other testimony as to the attempted arrest of General Barrundia on that vessel, and referring, also, to my dispatch No. 165 of the 17th instant, I have the honor to inform you that, in accordance with your instructions, I sent Secretary of Legation Hosmer to the port of San José de Guatemala to obtain the affidavit and testimony referred to. On his return he made a sworn statement, as per original herewith (inclosure No. 1).

The original affidavit, or sworn statement, of the captain of the *Acapulco* please find herewith as inclosure No. 2.

Not deeming this affidavit, or statement, satisfactory, or as filling the requirements of your telegram, I have made every effort to supply the deficiency by the testimony and statements of others. Accordingly, I called on the minister of foreign relations of this Republic on the 18th instant, requesting him to permit me to take the affidavit of Col. E. Toriello, the commandant of the port of San José, the officer who went on board the *Acapulco* to arrest Barrundia, as to the particulars of the incident; but the minister objected on the ground that the military officers of this Government could not be sworn as to their acts, and that a copy of the official report of the commandant had been sent to Minister Cruz, in Washington.

On the 13th instant Colonel Toriello had called on me at this legation, and, after reciting what took place at the door of Barrundia's stateroom—the reading of my letter of advice to Captain Pitts, the exhibition of the civil warrant, the defiant exclamation of General Barrundia, “I want to see the man who can take me out of here,” and his suddenly seizing his pistols and firing upon Captain Pitts and himself—the commandant went on to state that he and Captain Pitts took refuge in another stateroom, where Captain Pitts hid himself under the lower berth, and that a moment later Barrundia came by and fired two shots into the stateroom where they were.

These matters, in addition to showing the determined resistance of Barrundia, may account, in a measure, for the reluctance on the part of both the commandant and the captain to be fully examined as to what occurred.

On the 27th of August I addressed a note to the minister of foreign relations, of which inclosure No. 3 is a copy, and on the same day received his reply, of which inclosure No. 4 is a translation.

In the interview had with the minister of foreign relations on the 18th instant, above referred to, he stated distinctly and with emphasis that his Government had given Colonel Toriello positive orders to arrest and take Barrundia from the steamship *Acapulco*, port of San José, using all power necessary for that purpose, even to sinking the ship, notwithstanding it might have involved a conflict with our two war vessels then and there present; this, he said, would have been in the exercise of the undoubted right of his Government over its own waters, in which exercise he was confident the well-known respect of the United States for justice and the laws of nations would have sustained him. The minister at the same time exhibited to me a copy of a letter from Colonel Toriello to Mr. J. F. Curiel, United States consular agent at San José, dated August 15, 1890, in which the coming of Barrundia and the determination of this Government to arrest him by force, if necessary, was fully stated. Inclosure No. 5 herewith is a copy. I never saw or heard of this letter, nor that this Government had given the orders above referred to, until the 18th of this month. Had I known of them at the time, I would have considered them of sufficient importance to telegraph you.

My impression or apprehension that this Government might resort to force in arresting a passenger on one of our vessels and thereby endangering the lives of innocent passengers was derived from the fact that it had, as reported in my dispatch No. 122, on the 17th of last July, the day before certain arms were taken from the mail steamer *Colima*, moved a large Krupp cannon from this city to the port of San José, and also from the report of Captain Long, of that vessel, to the effect that this same Colonel Toriello had threatened to sink his ship if he attempted to get under way without giving up the arms demanded. (See inclosure No. 1 in my dispatch No. 159 of the 10th instant.)

The inclosure No. 6 is the affidavit of Gen. William Nanne showing the knowledge of Barrundia as to the movement of the mail steamers on these coasts, and also that Captain Pitts, formerly commanding the mail steamer *Honduras*, probably knew of the ruling of your Department in the attempted arrest of one Gomez on that steamer, as set forth in Mr. Bayard's dispatch to Mr. Hall, No. 226, March 12, 1835.

Inclosure No. 7 is the affidavit of Hon. Manuel Delgado, ex-minister of foreign relations of Salvador, showing that he was arrested and taken ashore against his will from the steamer *Acapulco* by the authorities of that Republic, with the consent of Capt. W. G. Pitts.

Inclosure No. 8 is a printed proclamation sent to me by the President of this Republic, of which he alleged a large number of copies were found in the stateroom of General Barrundia after his death. A translation goes with it.

For convenience of reference, I transcribe the opinion of Secretary Bayard as to the attempted arrest of Gomez on the steamer *Honduras*, as set forth in the dispatch above referred to:

It is clear that Mr. Gomez voluntarily entered the jurisdiction of a country whose laws he had violated. Under the circumstances, it was plainly the duty of the captain of the *Honduras* to deliver him up to the local authorities upon their request. It may be safely affirmed that when the merchant vessel of one country visits the ports of another for the purposes of trade it owes temporary allegiance and is amenable to the jurisdiction of that country, and is subject to the laws which govern the port it visits so long as it remains, unless it is otherwise provided by treaty. Any exemption or immunity from local jurisdiction must be derived from the consent of that country.

There is no commercial treaty between Guatemala and the United States.

There is a private treaty or contract between Guatemala and the Pacific Mail Steamship Company to the effect that the company shall not carry troops, munitions of war, etc.

In the Gomez case only *one* of the parties in interest, to wit, Nicaragua, appealed to the United States consul or minister.

In the case of Barrundia *both* parties in interest appealed to the consul-general and the minister of the United States, to wit, Guatemala and the master of the ship *Acapulco*.

The master was instructed as to his duty, with guaranties for the life and protection of his passenger.

Inclosure No. 9, being personal, is scarcely deemed material; but it is forwarded, as it may be considered a part of the history of the case.

I renew the suggestion made at the close of my dispatch No. 150, and can confidently add that nothing will tend so much to the establishment of permanent peace in these republics as a plain declaration that our fleet of steamers can not be used in local waters as an asylum for revolutionists.

I have, etc.,

LANSING B. MIZNER.

[Inclosure 1 in No. 170.]

Affidavit of James R. Hosmer.

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA, &c.:

James R. Hosmer, being duly sworn, deposes and says that on the 16th day of September instant he was directed by the minister of the United States to visit the port of San José, and in his official capacity as consul-general of the United States to go aboard of the Pacific Mail steamer *Acapulco*, then lying in that port, and take the affidavit of Capt. William G. Pitts, commanding that steamer, as to the facts relating to the resistance of arrest and the death of Gen. J. Martin Barrundia; that he did go aboard of the said steamer after his arrival at the port of San José, as directed, and requested the said affidavit from Capt. William G. Pitts, handing to him a written request to that effect from the minister of the United States; that the said Captain Pitts, in response, gave to this deponent a written statement setting forth briefly and in general terms certain facts relating to the said Barrundia's taking passage on the said steamer at the port of Acapulco, and his being killed while resisting arrest on board of the same steamer at San José at the hands of officials of the Guatemalan Government; that the said Captain Pitts swore to the truth of said statement before this deponent, in his official capacity as consul-general of the United States; but that, on being further questioned in regard to a more detailed account of the attempted arrest and shooting of the said Barrundia, he, the said Pitts, told this deponent that when he visited Barrundia's stateroom, in company with the commandant of the port, he was altogether unarmed, presuming that the said Barrundia had no offensive weapons, but that the commandant, Colonel Toriello, did have a pistol, which he believed to have been loaded, on his person, and that when subsequently he, the said Pitts, in company with the said commandant, fled before the shots of the said Barrundia directed at them, one of which passed closely above the bent head of the said Pitts, and sought refuge in a stateroom, that the said commandant concealed himself beneath the sofa in said stateroom, and, having his pistol cocked, that he, the said Captain Pitts, feared that he might be made a victim of accidental shooting from the hands of the said commandant in the cramped position as aforesaid; that as to details as to the subsequent firing on the part of the said Barrundia and the officers of the Guatemalan Government, he, the said Captain Pitts, had no personal knowledge beyond hearing the sound of rapid firing and then seeing the dead body of the said Barrundia on the deck.

JAMES R. HOSMER.

Sworn to before me this 18th day of September, A. D. 1890, at the United States legation in Guatemala.

[SEAL.]

LANSING B. MIZNER,
United States Minister.

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(Inclosure 3 in No. 170.)

Captain Pitts to Mr. Mizner.

STEAMSHIP ACAPULCO,

San José, September 16, 1890.

DEAR SIR: General Barrundia came on board at Acapulco August 23, purchasing a ticket for Panama. His baggage was searched, and all arms found were taken away. At Champerico the authorities wished to take him from the ship, claiming that he had committed crimes against the Guatemalan Government.

I refused to allow them to do so without written orders from the United States minister stating that they had that right.

I was detained there 24 hours by order of the Guatemalan Government. But they not receiving such orders, finally gave me my clearance, and I sailed for this port. On the afternoon of August 28 the authorities here came on board, bringing a letter from you stating that it became my duty to deliver him to them on their demand.

In company with the commandant, I went to his room to read him the letter.

He opened the door, and, after listening to a part of it, reached in onto his bed, drew two revolvers, and fired one shot between the commandant and myself, then came into the saloon and fired again while we were going aft.

Then the detectives shot at him, and the firing became general between the detectives on one side and General Barrundia on the other. Probably fifty shots were fired in all before General Barrundia was killed.

The body was taken on shore by the authorities.

WM. G. PITTS.

CONSULATE-GENERAL OF THE UNITED STATES AT GUATEMALA, ss:

William G. Pitts, captain of the Pacific Mail steamer *Acapulco*, being duly sworn, deposes and says that the foregoing statement is true.

WM. G. PITTS.

Sworn to before me this 16th day of September, A. D. 1890.

[L. S.]

JAMES R. HOSMER,
United States Consul-General.

(Inclosure 3 in No. 170.)

Mr. Mizner to Señor Don Angutano.

MR. MINISTER: On my return to this legation yesterday afternoon the consul-general informed me that he had received a communication from Your Excellency to the effect that Gen. J. M. Barrundia, formerly a citizen of Guatemala, was on the Pacific Mail steamer *Acapulco* at Champerico, and within the maritime jurisdiction of this Republic; that he was a person hostile and dangerous to Your Excellency's Government, and requesting that he be surrendered. Your Excellency also states that Guatemala was at war with Salvador, and that Mr. Hosmer, then temporarily in charge of the legation, had consented to the right of search of the vessel above referred to and the arrest of General Barrundia.

Your Excellency also verbally requested me, in an interview this morning, to confirm the consul-general's telegram to the captain of the steamer. While the case is an unusual one, taken in connection with the peace which was practically concluded last night, and of which a general amnesty was a part, I am disposed to confirm Mr. Hosmer's telegram as coinciding with the law of nations, but upon the conditions that General Barrundia's life shall be preserved, and that he shall be protected from any injury or molestation to his person, as well as that no proceedings be instituted or punishment inflicted other than for the causes stated in Your Excellency's said letter to Mr. Hosmer, and, assuming this, which corresponds to our interview this morning, I have telegraphed to the captain of the steamer *Acapulco* accordingly.

I am this moment in receipt of a telegram from Captain Pitts intimating that trouble may result on board of his ship from the arrest of General Barrundia in Champerico, and that it would be better to bring him to San José, to which I have acquiesced and embodied in my telegraphic reply to him.

Renewing the assurances of my distinguished consideration and esteem, I have, etc.,

LANSING B. MIZNER.

[Inclosure 4 in No. 170.—Translation.]

*Señor Don Anguiano to Mr. Mizner.*NATIONAL PALACE,
Guatemala, August 27, 1890. (Received August 27.)

EXCELLENT SIR: I have this day received Your Excellency's note, in which you inform me that the consul of the United States has explained to you that he had consented to the arrest of Mr. Martin Barrundia, who is aboard of the steamer *Acapulco*, in the port of San José, jurisdiction of this Republic.

In a verbal conference, Your Excellency also informed me that you were disposed to confirm the authorization, but that in presence of the late treaty of peace with Salvador, in which a general amnesty is agreed upon, you consider the case an extraordinary one, and ask, before such confirming, a guaranty of the life of Barrundia.

My Government, in conformity with the principle of international law which recognizes the jurisdiction of the state over its territorial seas and subjects to it merchant vessels while in its waters, had no necessity, in effecting the search of the steamer *Acapulco* and arrest of Barrundia, to rely on the consent of friendly nations or of their dignified representatives, but in this case believes it proper as an act of courtesy to Your Excellency's Government.

In support of the opinion which Your Excellency intimated, that merchant ships were subject to the territorial jurisdiction, I have not deemed it necessary to give a long enumeration of the authorities sustaining that doctrine, and especially treating of a state of war, which afflicts this Republic; the jurisdiction of the State is more than manifest.

It is true that a treaty of peace has been agreed to with Salvador, with the reservation of making a definite one within 3 months; there is therefore a truce or armistice until this final treaty can be made. Consequently, precautions are authorized in defense of the State such as I refer to.

Barrundia is being prosecuted by the ordinary tribunals with decree of formal arrest for common crimes; and, besides, while a fugitive from the Republic, he has organized armed factions to disturb its internal tranquillity that require to be suppressed.

Not only are arms and ammunition considered contraband of war, but also persons; and, viewed in this light, the capture of Barrundia is justified, he having threatened the public peace, which Your Excellency has made so great efforts to restore and which would otherwise prove useless.

On the other hand, the President of the Republic, desiring to give another proof of its friendly and sympathetic attitude towards Your Excellency's Government, takes particular pleasure in complying with the request of a guaranty for the life of Don Martin Barrundia, and thus I hereby confirm that guaranty, with the assurance that, in case the courts to which his case shall be submitted should impose the death penalty, he shall be relieved therefrom, extending to him the boon of life.

Renewing to Your Excellency, etc.,

F. ANGUIANO.

[Inclosure 5 in No. 170.]

Colonel Toriello to Señor Don Anguiano.

This 18th day of September, 1890, is the first time I ever saw or heard of this document.

L. B. MIZNER,
United States Minister.

COMANDANCIA Y CAPITANIA DEL PUERTO DE SAN JOSÉ DE GUATEMALA,
CENTRAL AMERICA,
August 15, 1890.

SIR: I have the honor to inform you that, acting in accordance with the usual custom in such cases, and in order that there might be no misunderstanding at the moment of examining the steamer in search of Barrundia, I have addressed to the consular agent of the United States at this port the communication of which I have annexed to this a copy.

Reiterating to the Señor Minister, etc.,

E. TORIELLO.

THE SECRETARY OF STATE IN THE OFFICE OF FOREIGN RELATIONS,

Guatemala, present.

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COMANDANCIA Y CAPITANIA DEL PUERTO DE SAN JOSÉ DE GUATEMALA,
CENTRAL AMERICA,
August 15, 1890.

MY DEAR SIR: In compliance with a pleasing duty, I have the honor to inform you that Mr. Martin Barrundia, a native of Guatemala, who has just committed the crime of high treason against the Republic by invading it with armed men from the Mexican frontier, is said to have embarked from some port of Mexico for Salvador and will soon pass along this coast. The crime of Mr. Barrundia is notorious, and his bad antecedents are too well known. In consequence of this, it is not to be expected that the captains of the steamers of the Pacific Mail Steamship Company, of the United States of North America, will consent to take him as a passenger, as this would be a hostile act committed against Guatemala, which now assumes an attitude of peace and friendly relations towards the United States. But if this should be the case, I have orders from my Government to take him from on board the steamer upon arrival when she anchors in the roadstead, orders that I shall proceed to carry out, using all the necessary means and precautions, holding responsible the captain or other persons who may conceal him on board or refuse to deliver him, the said Don Martin Barrundia, and his accomplices, if he brings any.

I shall be much indebted to you if you will please put the captains of the North American steamships in possession of the above facts as soon as they shall have arrived in this port. I shall also be much obliged if you will please acknowledge receipt of this communication.

Meanwhile have the goodness to accept the protestations of consideration and esteem with which I subscribe myself.

Very respectfully, your faithful and attentive servant,

E. TORIELLO,
Commandant of the Port.

Mr. JACOB CURIEL,
Consular Agent of the United States of North America, present.

[Inclosure 6 in No. 170.]

CONSULATE-GENERAL OF THE UNITED STATES AT GUATEMALA, ss:

William Nanne, being duly sworn, deposes and says: I am a citizen of the United States, 60 years old, and have resided in Guatemala 12 years, and am general superintendent of the Guatemala Central Railroad, connecting the city of Guatemala with the seaport of San José. I am well acquainted with Capt. William G. Pitts, commander of the Pacific Mail Steamer Company's steamer *Acapulco*, having known him as an officer and captain in that service running on these Central American coasts for more than 10 years last past, and made a trip with him when he was captain of the steamer *Honduras*, in the year 1884, belonging to said company; all the schedule and through steamers of that line stop at the port of San José de Guatemala and at La Libertad, in Salvador.

I knew Gen. J. M. Barrundia for 14 years. He was a native of Guatemala, frequently traveled on our railroad, and must have been familiar with the coming and going of the mail steamers, as he had traveled on them.

WM. NANNE.

Subscribed and sworn to before me this 22d day of September, 1890.

JAMES R. HOSMER,
United States Consul-General.

[Inclosure 7 in No. 170.]

CONSULATE-GENERAL OF THE UNITED STATES AT GUATEMALA, ss:

Mannel Delgado, being duly sworn, deposes and says: I am a native of Salvador, 37 years of age, and was minister of foreign relations under the administration of the late President Menendez in that Republic; that in a few days after that official's death, which took place on the 2d of June last, I desired to leave Salvador, on account of the political troubles then existing, and with the consent of the agent of the Pacific Mail Steamship Company at La Libertad, in said Republic, I went on board of the steamer *Acapulco*, Capt. William G. Pitts commanding, with instructions to pay my passage to the purser there, but before the steamer sailed officers of the new, or provisional, government of Salvador came on board, arrested and took me

ashore against my will and consent, Captain Pitts stating to the officers that he did not know whether I was aboard or not, but that if I was they could take me.

MANUEL DELGADO.

Subscribed and sworn to before me this 18th day of September, A. D. 1890.

[SEAL.]

JAMES R. HOSMER,
United States Consul-General.

[Inclosure 8 in No. 170.—Translation.]

Proclamation of General Barundia.

TO THE GUATEMALANS.

Long live a free people! Down with tyrants!

Principles which the revolution proclaims.

- Absolute submission to the law and equality for all before the law.
- Complete guaranties for all rights.
- Abolishment of all monopolies. Repeal of all taxes on liquor and tobacco.
- Respect for property.
- Absolute independence of the legislative and judicial powers.
- Power of the supreme court of justice to adjudge all who break the law, although it be the President of the Republic.
- Decided protection to commerce and national industry.
- To encourage immigration.
- Complete withdrawal from all contracts ruinous to the country, in whatever form they may exist, like that of Cotto, which will be the national ruin.
- Positive establishment of universal free nonsectarian public schools.
- To procure, by pacific means and mutual agreement with the other republics of Central America, the reconstruction of one single country.
- To establish true friendship with the Republic of Mexico, making closer the ties of amnesty and union by means of treaties which will draw the two nations closer together.
- To defend and cause to be respected the integrity of the territory.
- The chief of a revolution shall not be elected President of the Republic for the first constitutional term.

J. M. BARRUNDIA.

The diplomatic corps to Mizner.

[Inclosure 9 in No. 170.—Translation.]

GUATEMALA, August 31, 1890.

DEAR SIR: In view of the incidents connected with the death of General Barrundia on board of the Pacific Mail steamer *Acapulco*, we hand to Your Excellency this expression of our sympathy and friendship.

Witnesses of the lofty aims that have animated Your Excellency in so grave and delicate an affair, and understanding your procedure in trying to secure the life of the above-named general, inasmuch as it was impossible to prevent his arrest, which had been ordered, we consider it our duty to extend to you this assurance.

We take advantage of the opportunity thus offered to assure you of our high consideration and esteem.

JOSÉ MA. CASTRO,
Minister of Costa Rica.

G. LARIOS,
Minister of Nicaragua.

JULIO DE ARELLANO,
Minister of Spain.

L. REYNAUD,
Chargé d' Affaires of France.

ATE. HALEWYCK,
Chargé d' Affaires of Belgium.

ARTHUR CHAPMAN,
Chargé d' Affaires of Great Britain.

PAUL SCHMAECK,
Chargé d' Affaires of Germany.

Hon. LANSING B. MIZNER,
United States Minister.

Mr. Mizner to Mr. Blaine.

No. 172.] LEGATION OF THE UNITED STATES,
Guatemala, September 24, 1890. (Received October 9.)

SIR: This Government did, on the 22d instant, by formal decree, repeal the orders numbered 431, of the 28th of June, and 433, of the 20th of July last, establishing martial law on the Salvadorian frontier and throughout the Republic.

The decree of peace is expected daily.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 174.] LEGATION OF THE UNITED STATES,
Guatemala, September 24, 1890. (Received October 9.)

SIR: Referring to my dispatches Nos. 151 and 161 of the 3d and 10th instant, I have the honor to inform you that the protocol in print, or certain proceedings of the diplomatic corps on the subject of peace between Guatemala and Salvador, was not received until this morning, too late to give you more than a brief outline of its substance.

The material and more important documents of this protocol please find in my No. 151, with translations.

It will be seen that the negotiations were initiated by the special ministers of Costa Rica and Nicaragua addressing a note to the members of the diplomatic corps proper and receiving their reply, thus making it to some extent a family matter and avoiding any semblance of local interference on our part or subjecting our joint friendly action to criticism.

Other matters which may have transpired between myself and the Governments of Guatemala and Salvador can be reserved for a future dispatch, if necessary. It may be admitted, however, that both Republics considered the United States as the moving influence and power in the peace settlement, and frequently so stated.

In the detail and practical part of the negotiations Minister Larios, of Nicaragua, and Minister Arellano, of Spain, by reason of their superior knowledge of the Spanish language, rendered very efficient services, and the venerable ex-President of Costa Rica, Señor General José María Castro, contributed the weight of his diplomatic experience.

I have, etc.,

LANSING B. MIZNER.

Mr. Blaine to Mr. Mizner.

No. 186.] DEPARTMENT OF STATE,
Washington, September, 29, 1890.

SIR: You say in your No. 160 of the 10th instant:

Your important telegraphic instruction of the 20th of July, of which you send a copy as inclosure No. 5 in No. 143, demanding instant release of *Colima* and cargo, never reached me.

F R 90—8

In compliance with your request, I send you the cipher text of that telegram as dispatched. It was left at the Western Union Company's office in Washington at 2 p. m. on the 20th (Sunday), and inquiry at the Western Union office discloses that it went promptly forward by way of Galveston.

It is desirable that a thorough inquiry be set on foot, in order that the responsibility for the non-transmission of this important telegram be fixed.

If sent, as would appear, by way of Libertad, the obstruction at that time of the land wires thence to Guatemala City might excuse some delay, but would not account for the total suppression of the dispatch. We have the elaborate disclaimer of the Salvadorian provisional authorities that any interference with our dispatches took place in their jurisdiction. On the other hand, it is noted, with regret, that the statement of the consul at San Salvador that he had been prevented from telegraphing to you or to Washington, which was communicated to you in Department's instruction No. 177 of September 18, 1890, is mainly corroborated by the remark in your No. 160 that "our consul was not permitted to cable to his Government or to this [your] legation last month, except in a restricted manner;" and you add that you are informed that the cable company's business at La Libertad was controlled by sentinels placed at the door of the office.

The nondelivery of this, the most important of the instructions sent to you in regard to the *Colima* arms seizure, and the later incident of the mangled transmission of the Department's telegram of August 30, 1890, touching the death of General Barrundia, give this Government a very painful impression of the insecurity of its means of communication with its agent in Central America, which, it is trusted, a searching investigation will enable you to remove. If not, it is hoped the facts will be so positively developed as to suggest the needed corrective.

I am, etc.,

JAMES G. BLAINE.

• *Mr. Blaine to Mr. Mizner.*

No. 188.]

DEPARTMENT OF STATE,
Washington, October 2, 1890.

SIR: Referring to instruction No. 186 of the 29th ultimo, I have to state that according to a communication of yesterday from the Western Union Telegraph office here, it has been advised by the *Director Telegrafos*, San Salvador, that the telegram of July 20 last, in which you were instructed to demand instant release of *Colima* and cargo—and which you say in your No. 160 of the 10th ultimo never reached you—"was duly sent to its destination on same day by way of Honduras, as direct communication with Guatemala was impossible."

Awaiting the result of your own inquiries,

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Mizner.

No. 189.]

DEPARTMENT OF STATE,
Washington, October 6, 1890.

SIR: I transmit for your information a copy of a statement sent me from Dakota by Mr. Myers, our consul at San Salvador, relating to events of the civil commotion there in July and August last, and especially to the subject of instruction No. 177 of September 18 last addressed to your legation.

Mr. Myers's statement appears to substantiate the allegation that his correspondence was impeded, and that his movements were under duress.

The question of satisfactory indemnity for official losses and personal injury is reserved, awaiting the consul's additional statement on the subject.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 189.]

*Mr. Myers to Mr. Wharton.*CONSULATE OF THE UNITED STATES, SAN SALVADOR,
Huron, S. Dak., September 27, 1890. (Received September 30.)

SIR: I have the honor to acknowledge the receipt of yours of September 23, 1890, which is just received, in which you request me to submit to the Department of State any evidence I might have to corroborate "that I was not permitted to communicate with you or Minister Mizner, nor to leave the country without a pass, and which, if requested, would be granted and my exequatur would be withdrawn."

In compliance, I herewith inclose a dispatch which I desired to send to Secretary Blaine, August 2 (inclosure 1), which they refused to send, and instead thereof wished me to send inclosure 2, translated from the Spanish, together with a sworn statement made by Prof. William P. Fletcher, an Englishman who acted as interpreter of what transpired between Ezeta's secretary-general and myself.

I have nothing in writing which will show that I was not permitted to communicate with Minister Mizner; but the fact will not be disputed, as Mr. Samuel C. Dawson, director of the post-office at San Salvador, will make affidavit to that effect at any time. He first received an order that nothing should be sent to Guatemala without inspection and the first part of July another order permitting nothing to be sent, nor delivered, if any matter was received from there; and my request for permission to communicate with Minister Mizner was refused.

A communication from Minister Mizner, dated and postmarked Guatemala July 11, was not delivered to me until August 10 at 12 noon. After they had hoisted the flag and I had been restored to my consular rights, it was handed to me by Lieut. G. W. Denfeld, of the man-of-war *Thetis*, who had received it from Ezeta's Government.

I have been unable, through illness, to make any report before this, but hope to be able to submit it about October 1.

I am, etc.,

HENRY R. MYERS,
United States Consul, San Salvador.

[Inclosure 1.]

Secretary BLAINE,
Washington:

General Ezeta's troops commenced assault on San Salvador, without notice, on 30th; on 31st broke open consulate, pulled down and carried away flag. I escaped through holes made in back wall, running for life through heavy firing 2 miles. Consulate and residence totally destroyed. Consider my life unsafe here; leave for Washington on 5th.

SAN SALVADOR, August 2, 1890.

Digitized by MYERS, gle
Consul.

[Inclosure 2.—Translation.]

Benjamin Molino Guirola, secretary-general, then dictated the following:
 Secretary BLAINE,
Washington:

With regard to the hordes of Indians commanded by the revolutionary General Rivas that had taken the military quarters here, and by an assault which lasted 2 days, troops of the Government retook them. In so doing they took possession of the consulate, and during the fight everything in the office and private residence was lost, including flag which was then hoisted. Order has been reestablished; the constituted authorities offer me security and regards, but I fear that farther on I may not be entirely satisfied, and I have resolved to leave.

SAN SALVADOR, *August 2, 1890.*

Ezeta's Government offered to pay for this, which the consul declined to accept.

[Inclosure 3.]

Statement of William P. Fletcher.

I, William P. Fletcher, British subject and professor of languages, accompanied Henry Ray Myers, consul of the United States of America at San Salvador, to the telegraph office on August 2, when he requested the director to transmit the foregoing dispatch to Washington (inclosure 1), which the director declined doing, saying it would injure the good reputation of this Republic, and added that to have it sent the consul would have to get an order from the secretary-general, Gen. Benj. Molino Guirola. The consul requested him to write this at the foot of the dispatch, but the director refused to do so, saying this would give the consul ground on which to set up a claim.

Then I accompanied said consul to the secretary-general, and there, after presenting him his personal respects and exchanging mutual and friendly compliments, the consul requested permission to send said dispatch to Washington. In reply, the secretary-general said that everything stated therein was true at that time, but added this dispatch would be read all over the world and disgrace this country, and wanted the consul to make some changes in it. To this the consul told the secretary to indicate the changes he desired to be made, and he then dictated dispatch in Spanish (inclosure 2), and said dispatch was by me translated into English for the consul, the consul saying he did not consider that he could send this dispatch instead of the other, but that he would think the matter over. Then the secretary requested another private interview, as he was very busy, and both parties appointed by agreement 10 a. m. next day for the interview.

On August 3, at the appointed time, I was also present during the interview, acting, as the day before, as an interpreter for both parties, when, complying with the consul's request, I translated to the secretary the following article of the treaty between the United States and Salvador:

"The consular offices and dwellings shall be at all times inviolable. The local authorities shall not, under any pretext, invade them. In no case shall they examine or seize the archives or papers there deposited.

"Consuls, in all that exclusively concerns the exercise of their functions, shall be independent of the state in whose territory they reside."

To which the secretary replied that that was all right in time of peace, but that this was war time, and that the urgency of the case had made it necessary to do what they did. The consul said that he thought they ought to have at least given him notice, so as to have been able to put himself in safety; and the secretary replied that there had been no time to do so, and assured the consul that the breaking of the doors and the occupation of the consular office, the taking down of the flag by his troops, and the damage to property was not done with any intention of disrespect or insult to the United States, and that the Government had not the slightest intention to cause any injury to the consul, if they knew it, as personally he (Gen. Molino Guirola) and the Government had the greatest respect for the consul's uniform courtesy and gentlemanly manners, and that they were ready to pay him for all personal losses of property, submitting the question of the amount to be paid to a commission which would be appointed by the Government. The consul thereto replied that the breaking open of the consulate, the occupation of the same by his troops, the hauling down of the flag, and compelling the officer of the United States to hide in the back part of the building, surrounded only by a few stones, to escape the bullets for 31 hours, without anything to eat, and then being no longer able to remain, having to take flight from the building through holes dug in the back

wall, and through heavy firing on both sides, running for 2 miles, and then having to remain where the bursting of the grenades and the flying of the bullets was causing destruction all around him until about 3 a. m. on August 1, was a very important matter, which he thought it his duty to freely, and without fear of personal injury, lay before his Government, and that he was unauthorized to accept any compensation for personal losses or injury until his Government had all the facts before them and authorized him to make any arrangement whatever for compensation for personal losses or injury, and that it was his intention to now proceed to Washington and lay all the facts before the Government, and would therefore request the secretary-general to give him a pass which would enable him to go through his troops and embark on board an American ship at such a time as he might be able to depart, and, in the meantime, to give him another pass which would enable him to travel anywhere within the Republic. The secretary-general then said that he would cheerfully give a pass to enable him to travel anywhere within the Republic, but that if he wanted to leave the country, he (the consul) would have to apply in writing for another pass for that purpose, and that when the consul did so, he (the secretary) would grant the pass, but at the same time withdraw the consul's exequatur. The interview then closed by the secretary-general giving the consul a pass enabling him to travel within the limits of the Republic of Salvador.

WM. P. FLETCHER.

SAN SALVADOR, August 4, 1890.

Subscribed and sworn before me this 5th day of August, 1890.

[SEAL.]

GUSTAVO LYANO,
Acting Consul.

Mr. Mizner to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, October 6, 1890. (City of Mexico, October 7, 1890.)

Mr. Ryan states that he has received a telegraphic message from Minister Mizner requesting him to telegraph to the Department in substance as follows:

GUATEMALA, October 6, 1890.

The formal announcement of the election of General Ezeta as Provisional President of Salvador was received on the 2d instant, together with the customary letter to the President of the United States, forwarded by mail. Salvador has just designated a representative plenipotentiary for the purpose of negotiating the treaty provided for in the bases of peace.

Mr. Mizner to Mr. Blaine.

[Extract.]

No. 179.]

LEGATION OF THE UNITED STATES,
Guatemala, October 8, 1890. (Received October 23.)

SIR: For several days prior to the beginning of this month some little friction appeared to exist between the three republics of Central America recently at war, growing out of intimations of a want of complete compliance with all the terms of the peace bases agreed to by them.

The time stipulated in which a treaty of peace between Salvador and Guatemala was to be made was rapidly passing, and as yet no notice of the election of the new President and the establishment of a new government in Salvador had been given, and no steps toward the making of the treaty referred to had been taken.

There was also a delicate question as to which republic should first send its plenipotentiary to the other. The feeling had increased so that on the 28th of last month General Ezeta addressed a rather sharp

telegram to the President of Honduras on the alleged unsettled condition of affairs, which, however, was on the next day so frankly and kindly answered by President Bogran as to dispel all unpleasant apprehensions in that quarter.

In view of these matters, and at the suggestions of high officials of Guatemala and Salvador, it was deemed well for some of the members of the diplomatic corps to make a social visit to San Salvador, with a hope that an opportunity might offer to suggest means of more perfect harmony; accordingly, the ministers of Spain and Nicaragua joined me, and we went on the U. S. S. *Ranger* to Acajutla.

Commander Reiter kindly accompanied us to the Salvadorian capital, where we were most hospitably received by President Ezeta and his Government and greeted with a serenade and every attention.

Notice of the due organization of the new government and the appointment of Señor Alberto Mena as acting minister of foreign relations, as well as the usual letter to the President of the United States, were given me.

The President of Salvador informed me that he had appointed a plenipotentiary to Guatemala for the purpose of negotiating a treaty of peace, as above referred to, the Government of Guatemala having previously stated that such a minister would be received with the highest honors.

I am therefore quite confident that the treaty will be promptly agreed to and a lasting peace formally declared, thus restoring that order and good will among these States so important for their happiness and prosperity and so much desired by you.

Finding it necessary to return to Guatemala before my associates, the President sent his military band, as a compliment to our Government, on the train with me to the port of Acajutla, and I arrived here on Saturday, the 4th instant.

The newspaper telegrams purporting to come from these republics for the last few months in reference to local troubles are, as a general thing, utterly false and malignant to a degree that is absolutely startling.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 187.]

LEGATION OF THE UNITED STATES,
Guatemala, October 18, 1890. (Received November 7.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 177 of the 18th instant on the subject of the interruption of the correspondence of Consul Myers by the authorities of the Republic of Salvador and their refusal to grant him a pass to leave the country, in connection with which I have to report that I have sent to the telegraph operator who was at La Libertad in July, August, and September last for a written statement of the control exercised over his office by the authorities of Salvador during the time mentioned. As soon as I shall receive a reply I will forward it to you; in the meantime it will be well for you to send me a copy of the disclaimer of Salvador referred to in your No. 186 of September 29, so as to enable me to investigate the matter more perfectly.

I am, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 188.]

LEGATION OF THE UNITED STATES,
Guatemala, October 18, 1890. (Received November 7.)

SIR: I have the honor to acknowledge the receipt of your No. 186 of the 29th of last month on the subject of your lost telegram of the 20th of July instructing me "to demand the instant release of the *Colima* and cargo," and to report that, as you say it was sent via Galveston, I have written to the operator at La Libertad for information on the subject. Much will depend upon his answer. I have also made inquiry of the operator mentioned in my No. 187. I will, by the next mail, communicate with the Provisional Government of Salvador on the subject of Consul Myers being refused a pass to leave the country and will promptly report all results.

I am, etc.,

LANSING B. MIZNER.

Mr. Blaine to Mr. Mizner.

No. 197.]

DEPARTMENT OF STATE,
Washington, October 21, 1890.

SIR: I inclose a copy of two dispatches from the United States vice-consul at Tegucigalpa, by which it appears that, notwithstanding your telegram of the 19th ultimo to the vice-consul, mercantile correspondence by means of the cable via La Libertad has continued interrupted since the cessation of hostilities. You will make most earnest representations against the prolongation of a state of things so injurious to friendly commercial relations.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 197.]

Mr. Bernhard to Mr. Blaine.

No. 99.]

CONSULATE OF THE UNITED STATES,
Tegucigalpa, September 22, 1890. (Received October 17.)

SIR: Respectfully, I inclose copies of telegrams exchanged between this consulate and the legation of the United States of America at Guatemala.

The cable line is still closed, and the damages caused to the American enterprises through the interruption of cables are countless.

I have, etc.,

GEO. BERNHARD,
United States Vice-Consul.

Mr. Bernhard to Mr. Mizner.

[Telegram.]

TEGUCIGALPA, September 15, 1890.

Hon. Mr. MIZNER, U. S. Minister, Guatemala:

The American citizens of Honduras representing American enterprises are greatly delayed and suffering great damages by the continued closing of the cable lines at San Salvador, and therefore demand of their representative that he take such steps as to afford the necessary relief.

Respectfully,

GEO. BERNHARD,
United States Vice-Consul.

Mr. Mizner to Mr. Bernhard.

[Telegram.]

GUATEMALA, September 19, 1890.

GEORGE BERNHARD, *United States Vice-Consul, Tegucigalpa:*

The cable line via La Libertad, Salvador, will be open for telegrams to the United States on Monday.

MIZNER,
United States Minister.

[Inclosure 2 in No. 197.]

Mr. Bernhard to Mr. Blaine.

No. 100.]

CONSULATE OF THE UNITED STATES,
Tegucigalpa, September 27, 1890. (Received October 17.)

SIR: I hereby inclose a dispatch signed by the superintendents of the several American mining companies which I received yesterday.

No comment is necessary to call the valuable attention of the Department of State to the plain fact that, if the cable line should continue under the management of the Government of Salvador, some of these American companies will be forced to declare themselves insolvent, and the bitter and fatal consequences would be loss to the American capitalists, who are largely interested, and disgrace to the American colony of Honduras.

I have, etc.,

GEO. BERNHARD,
United States Vice-Consul.

Mr. Valentine and others to Mr. Bernhard.

TEGUCIGALPA, HONDURAS, CENTRAL AMERICA, September 26, 1890.

DEAR SIR: The undersigned are all known to you as owners, managers, or representatives of American mining enterprises in Honduras. You also know that because of the long time it requires to exchange correspondence with the United States, that we have conducted much of our business by means of the cable company's line from La Libertad, in Salvador, and thence across Mexico to Galveston. By this means money was transferred from American banks, merchants, and individuals to Honduras banks, merchants, and individuals; shipments of bullion announced, orders for machinery and supplies sent, or negotiations conducted. You are also aware that soon after the death of President Menendez, of Salvador, June 22, this cable communication was suspended, and the telegraph lines of Salvador were closed to us during the war that occurred between Salvador and Guatemala, and which concluded with the reestablishment of peace between those Republics on or about the 27th day of August last. You are also well aware of the fact that the Government of Honduras has energetically endeavored to have this cable communication with the United States reestablished. You also know that to this date cable communication with the United States is not permitted by the Government of Salvador, and that great injury is suffered by citizens of the United States doing business in Honduras. To this date, we are positively advised, no American has been able to receive a cable from the United States in reply to any of many messages sent since last August. It is true that some old messages dated in July and August have been forwarded and received, dates so old that they are useless. It is perfectly apparent that the Government of Salvador persistently designs the injury of the affairs and prosperity of Honduras, and in enforcing this obstruction of communication over the territory of Salvador the foreign enterprises, chiefly American and English, are the greatest direct or immediate sufferers and this Republic the ultimate loser. There are about twenty American companies operating in Honduras, with several millions of dollars invested. Some of these are already heavy losers, some have suspended work and are threatened with bankruptcy, because of the refusal of the Government of Salvador to permit the remission and exchange of money in the established and usual manner. We are ignorant as to whether the American cable company suffers any loss or receives indemnity against loss. Speaking for ourselves only, we have, through you, protested to the minister of the United States resident in Guatemala, and have also sent our protest to

him directly, not communicating through you. But that gentleman seems to be either helpless or indifferent regarding this most unwarranted attitude of the Government of Salvador. So far as we can observe, we have yet no hope of redress because of any demands by our official representatives in Central America.

We can only hand you the facts and request that you forward to the Home Government. Our commercial privileges are outraged, and we can but endure the outrage while waiting to see if our Government will demand the privileges to which, as citizens, we are entitled by international usage in time of peace.

We are painfully aware that in some of these countries for very many years American citizens have felt that they have not enjoyed the same proportion of protection which other nations accorded their people abroad. The American has felt the inferiority and humiliation of his position if compared with a citizen of Europe. The Government of Honduras accords us fully all the rights to which we are entitled, and we feel perfect security in so far as we are dependent on the administration of the affairs of this Republic.

As no more fatal blow could be struck against the extension of American commerce and enterprise than the one against which we protest, we wait with anxiety the action of our own Government in effecting restoration of our communications with other countries.

Very respectfully,

W. J. VALENTINE.
E. A. JACOBY.
F. M. IMBODEN.
G. W. GIBSON.
RICHARD CROW.
C. H. AARON.
H. M. PAYNE.
GEO. S. COLMAN.
J. E. FOSTER.

Mr. Mizner to Mr. Blaine.

No. 193.]

LEGATION OF THE UNITED STATES,
Guatemala, October 24, 1890. (Received November 13.)

SIR: I have just received your instruction No. 188 of the 2d instant, in which you say that the director of telegraphs in Salvador states that your telegraph of the 20th of last July "was duly sent to its destination on the same day by way of Honduras, as direct communication with Guatemala was impossible."

I have the certificate of the receiving clerk of the central office in this city to the effect that no such telegram has ever been received in his office. There is no other office here having telegraphic connection with Honduras.

The loss or delay must be somewhere between Salvador and Honduras, or between Honduras and this Republic. I have written to our consul in Tegucigalpa to investigate the matter, sending him a copy of the cipher telegram for that purpose. Mail communication with Honduras is slow, and an answer from there can not be expected short of a month.

I am, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 197.]

LEGATION OF THE UNITED STATES,
Guatemala, October 29, 1890. (Received November 13.)

SIR: The special minister of the Republic of Salvador, Señor Doctor Don Eugenio Arango, was received by the President of Guatemala on the 20th instant in the usual manner. The respective addresses made

on the occasion were most friendly, promising a lasting peace between the two countries.

Señor Arango comes for the purpose of negotiating the final treaty referred to in the bases of peace and in my dispatch No. 179 of the 8th instant. He and the minister of foreign relations of this Republic assure me that the two Governments are in accord, and that there will be no difficulty in arriving at a prompt and satisfactory conclusion, including a favorable view of the International Railway, as suggested by the Pan-American Congress, the insertion of which will be due to the importance you have given it and to the earnest and friendly manner in which it has been urged here.

Desiring to bring the high contracting parties into the most friendly relations, they and the whole diplomatic corps have been entertained at this legation, where the kindest sentiments were exchanged.

Thus, under our kind mediation, aided by other friendly nations, a war in which several hundred lives had been lost and many millions of dollars squandered, and which threatened untold disaster in the immediate future, was stayed in its destructive course.

Two hostile armies, aggregating over 30,000 men, were retired to their homes as if by magic.

It is noted with surprise that the public press has had scarcely a word of commendation for our humane action in this particular, but, on the contrary, it has been exceedingly severe and unfair in its comments on a mere incident of the war, to wit, the right of a nation to arrest one of its own citizens in its own waters.

The relations between the states of Central America seem now to be most cordial and our own with each of them equally so.

I have, etc.,

LANSING B. MIZNER.

Mr. Mizner to Mr. Blaine.

No. 203.]

LEGATION OF THE UNITED STATES,
Guatemala, November, 10, 1890. (Received November 28.)

SIR: Referring to my No. 187 of the 18th of last month on this subject of intercepted correspondence, I have the honor to report that I requested Mr. T. A. Whitney, one of the most honorable and best known American merchants residing in this Republic, to interview the telegraph operator formerly in charge of the telegraph cable in Salvador, as to the control exercised by that Government over the business.

Mr. Whitney has just returned and informs me that he had several conversations with the operator, who stated distinctly that it is a part of the contract between the cable company and the Government of Salvador that the Government should have supervision of the correspondence, and that, as a matter of fact, during the late war in July and August last the authorities of Salvador did place a guard of soldiers over the cable office in La Libertad, controlling its business.

I renew my request for a copy of the disclaimer referred to in your instructions No. 186 of September 29, 1890.

I have, etc.,

LANSING B. MIZNER.

Mr. Blaine to Mr. Mizner.

No. 203.]

DEPARTMENT OF STATE,
Washington, November 14, 1890.

SIR: In response to a part of your No. 187 of the 18th ultimo, I transmit a copy of Gen. Molina Guirola's telegram to this Department of August 6, 1890, stating that messages to you were not detained in Salvador. As the telegram* of Minister Ryan, dated at Mexico, July 28, 1890, is also pertinent, I inclose a copy.

Referring at the same time to the telegram of this Department sent you on the 7th of August and to instruction No. 151 of August 11, 1890.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 203.—Telegram.—Translation.]

Mr. Guirola to Mr. Blaine.

MINISTRY FOR FOREIGN AFFAIRS,
San Salvador, August 6, 1890.

Messages from your Department to Minister Mizner are not detained in any office in Salvador, but in telegraph office in Guatemala.

Your obedient servant,

B. MOLINÓ GUIROLA,
Minister.

Mr. Blaine to Mr. Mizner.

[No. 206.]

DEPARTMENT OF STATE,
Washington, November 18, 1890.

SIR: The receipt of your dispatch No. 170 of the 23d of September has furnished the additional details which have been awaited in order to form a judgment in regard to the killing of General Barrundia on board the Pacific Mail steamer *Acapulco* in the port of San José on the 28th of August last.

The facts of the case may be summarized thus:

Gen. J. Martin Barrundia, who held the secretaryship of war in the cabinet of the late President Barrios, was an aspirant for the Presidency of Guatemala, and, being exiled by the authorities in actual possession of power, had sought for several years to advance his pretensions by a method for which, unfortunately, recent precedents are not wanting, that is, by revolutionary movements in the interest of himself and his personal following. Taking advantage of the state of hostilities between Guatemala and Salvador, he attempted to organize an invasion, operating from the Mexican border territory; but, failing, he and his followers were disarmed by the authorities of Mexico. Subsequently he found his way to the Mexican port of Acapulco, and there, on the 23d of August last, purchased a ticket for Panama and went on board of the Pacific Mail steamer *Acapulco*, sailing under the American flag. His baggage was searched, presumably by order of the captain of the steamer, and all arms found were taken away.

* For this inclosure see under Mexico.

By the published schedules of the Pacific Mail Steamship Company, its vessels plying between San Francisco and Panama as terminal points are regularly appointed to call at certain ports on the Mexican and Central American coast, among which are Champerico and San José, in Guatemala. Of this fact General Barrundia, who is said to have been a frequent passenger on these steamers, was doubtless fully aware.

His intended departure from Acapulco having become known in Guatemala at least as early as August 15, the authorities conceived the design of securing possession of him while in transit. The commandant at Champerico accordingly addressed a communication—of which the date is not given—to the consular agent of the United States at that port, announcing that General Barrundia intended to embark by a steamer from the north “as a passenger for Salvador;” that, as he had borne arms against Guatemala, he was guilty of “high treason and other crimes, as the public well know;” and that the Guatemalan Government had ordered his arrest on the anchoring of the vessel bringing him. To this end the commandant asked the consular agent to direct the captain to lend his aid, so that General Barrundia might be delivered up “according to the law of nations, besides the extradition treaty for criminals ratified in 1870 between the Governments of Guatemala and the United States, which applies in the present case.”

In this relation, it may be observed that the extradition treaty between the United States and Guatemala which was signed in 1870 is not yet in force. But the fact that the demand was treated by Guatemala, in the first instance, as a proceeding in extradition is significant; and it is also to be noticed that the unratified treaty forbids the extradition of political offenders—a point of special significance in view of the original ground assumed by Guatemala.

The agent at Champerico telegraphed August 25 to Consul-General Hosmer for instructions. Mr. Hosmer, in your absence, on the same day authorized the agent to acquaint the commandant with his impression that the Guatemala Government had the right to search foreign vessels in her own waters for persons suspected of hostility in time of war and to arrest them. The telegram of Mr. Hosmer, which assumed to advise a Guatemalan official of his rights under international law, immediately found its way to the President of Guatemala, who the next day (August 26) summoned him to the Executive residence, and, after rehearsing the charges of Guatemala against General Barrundia, requested Mr. Hosmer to repeat his opinion by telegraph to the captain of the *Acapulco*. This Mr. Hosmer at once did, instructing Captain Pitts to “see that no obstacle is permitted to that right of search in accordance with the law of nations.” In his No. 243 Mr. Hosmer justifies his telegram by saying that he was not then aware that the bases of peace had been signed by Salvador.

The captain, on receiving this, telegraphed Mr. Hosmer the same afternoon (August 26), suggesting, as a guaranty for the ship and himself, to hold General Barrundia on board until reaching San José, where he would place himself under the orders of the United States minister, whose immediate return to his post was expected. This telegram was not answered by Mr. Hosmer.

The steamer *Acapulco* was detained at Champerico for 24 hours, from the 25th to the 27th of August, by order of the Guatemalan Government, during which time an attempt was made to arrest General Barrundia; but Captain Pitts refused to allow this to be done “without written orders from the United States minister stating that they had

that right." On learning of Captain Pitts's refusal, the secretary for foreign relations, Señor Anguiano, on the evening of the 26th of August wrote a letter to Mr. Hosmer, which, because of its important bearing upon the case, I quote in full, as follows:

OFFICE OF MINISTER FOR FOREIGN RELATIONS OF GUATEMALA,
National Palace, Guatemala, August 26, 1890.

HONORABLE SIR: The captain of the steamer which anchored to-day in Champerico resists, as the commandant of the port informs me, to permit the arrest of Gen. J. M. Barrundia, who is aboard of that vessel. This Guatemalan general has not only in different ways attacked his country, Guatemala, but has armed himself against her, raising an armed faction on the Mexican frontier to invade her.

Barrundia landed a few days since in San Benito, a Mexican port, having arms with him, and when he put them in hands in Tapachula, and moving upon Guatemala, was arrested and deprived of his arms; finally, he dared to penetrate the territory of Guatemala, leading an armed faction.

The facts referred to, Honorable Sir, show the perfect right which exists in the Government of Guatemala, being in a state of war, to capture Barrundia on the steamer which is anchored in Champerico; for certainly the consul-general and secretary in charge of the business of the United States of America knows that every nation, being in war, can examine or inspect foreign vessels in its own waters and capture those simply suspected of being hostile.

Besides, by the contract which the Government made with the Pacific Mail Steamship Company that company should not permit the bringing or taking to Guatemala, nor to the adjacent countries, any element of hostility in time of war, such as exists at this time.

Accordingly, I address myself to the Honorable Consul-General and Chargé d'Affaires of the United States that he will, if he thinks proper, give his directions by telegraph to the effect that the captain of the vessel referred to may not offer any resistance to the capture or arrest of the said Gen. J. Martin Barrundia.

With assurance of my high consideration,

F. ANGUIANO.

Hon. JAMES R. HOSMER,
Secretary in Charge and Consul-General of the United States, present.

Consul-General Hosmer's connection with the affair here ceased. You returned to Guatemala City on the afternoon of the 26th, bringing the bases of peace which had been signed by President Ezeta, of Salvador, at Acajutla on the preceding day, August 25. Those bases were formally accepted by Guatemala on August 26, and proclaimed the same day, with orders for disarming and retiring the forces of Guatemala on the Salvadorian frontier. Your return, therefore, coincided with the official cessation of hostilities.

It would appear that on the night of August 26 you orally discussed the case of General Barrundia with President Barillas and Señor Anguiano, and some conditions in regard to the personal safety of General Barrundia were, at your request, promised by the President and minister for foreign relations. It seems, also, that you again conferred with Señor Anguiano on the morning of August 27. You have not seen fit to report the details of those conferences to the Department, but it may be assumed that their tenor is presented in certain notes exchanged between you and Señor Anguiano on the 27th of August.

At noon on the 27th you received a telegram from Captain Pitts, dated the same day at Champerico, stating that he was awaiting your instructions in reference to the demand to arrest General Barrundia, and that he would prefer to have the matter settled at San José, because he could there receive your written orders and have better protection, adding:

I fear the passenger wanted will resist himself from leaving the ship, and there are several others on board who would probably help him to resist, which might make trouble on my ship.

You answered Captain Pitts on August 27, stating your view that Guatemala had the right to arrest a person on a neutral ship in its own waters *in time of war* for any cause deemed an offense under international law, adding:

In this case, it must be understood that life is not to be endangered, or the person arrested punished for any other offense than that specified in the letter of the Guatemalan Government addressed to Consul-General Hosmer. If, in your judgment, the lives or property of innocent persons on board will be endangered by submitting to the arrest in Champerico, it would be better to bring the person to San José without altering his status, and where protection can be had.

This telegram did not reach Captain Pitts until his arrival, on the night of the 27th, at San José, whither the authorities at Champerico had permitted him to proceed.

Soon after receiving and answering Captain Pitts's telegram you addressed a note on the subject to the secretary for foreign relations. You recited the purport of the statements made by Señor Anguiano to Mr. Hosmer in writing on the preceding day and to yourself orally on the morning of the 27th respecting General Barrundia's alleged criminality and the request for orders to facilitate his arrest, adding:

While the case is an unusual one, taken in connection with the peace which was practically concluded last night, and of which a general amnesty was a part, I am disposed to confirm Mr. Hosmer's telegram as coinciding with the law of nations, but upon the conditions that General Barrundia's life shall be preserved and that he shall be protected from any injury or molestation to his person, as well as that no proceedings be instituted or punishment inflicted other than for the causes stated in Your Excellency's said letter to Mr. Hosmer; and, assuming this, which corresponds to our interview this morning, I have telegraphed to the captain of the steamer *Acapulco* accordingly.

The reply of Señor Anguiano is so necessary to an understanding of the situation and of your subsequent action that it is proper to repeat it in full:

NATIONAL PALACE, Guatemala, August 27, 1890.

EXCELLENT SIR: I have this day received Your Excellency's note, in which you inform me that the consul of the United States has explained to you that he had consented to the arrest of Mr. Martin Barrundia, who is aboard of the steamer *Acapulco* in the port of San José, jurisdiction of this Republic.

In a verbal conference, Your Excellency also informed me that you were disposed to confirm the authorization, but that in presence of the late treaty with Salvador, in which a general amnesty is agreed upon, you consider the case an extraordinary one, and ask, before such confirming, a guaranty of the life of Barrundia.

My Government, in conformity with the principle of international law which recognizes the jurisdiction of the state over its territorial seas and subjects to it merchant vessels while in its waters, had no necessity, in effecting this search of the steamer *Acapulco* and arrest of Barrundia, to rely on the consent of friendly nations or of their dignified representatives, but in this case believes it proper as an act of courtesy to Your Excellency's Government.

In support of the opinion which Your Excellency intimated, that merchant ships were subject to the territorial jurisdiction, I have not deemed it necessary to give a long enumeration of the authorities sustaining that doctrine, and especially treating of a state of war, which afflicts this Republic; the jurisdiction of the State is more than manifest.

It is true that a treaty of peace has been agreed to with Salvador, with the reservation of making a definite one within 3 months; there is therefore a truce or armistice until this final treaty can be made; consequently, precautions are authorized in defense of the State such as I refer to.

Barrundia is being prosecuted by the ordinary tribunals with decree of formal arrest for common crimes, and, besides, while a fugitive from the Republic, he has organized armed factions to disturb its internal tranquillity that require to be suppressed.

Not only are arms and ammunitions considered contraband of war, but also persons; and, viewed in this light, the capture of Barrundia is justified, he having threatened the public peace which Your Excellency has made so great efforts to restore, and which would otherwise prove useless.

On the other hand, the President of the Republic, desiring to give another proof of its friendly and sympathetic attitude toward Your Excellency's Government, takes particular pleasure in complying with the request of a guaranty for the life of Don Martin Barrundia; and thus I hereby confirm that guaranty, with the assurance that, in case the courts to which his case shall be submitted should impose the death penalty, he shall be relieved therefrom, extending to him the boon of life.

Renewing, etc.,

F. ANGUIANO.

His Excellency SEÑOR DON LANSING B. MIZNER, etc.

It is to be noted that this correspondence, so essential to an understanding of the case, was not reported to the Department until appended to your last dispatch, written September 23, 4 weeks after it was exchanged with Señor Anguiano.

Soon after writing your note to Señor Anguiano you sent, on the 27th, a telegram to Lieutenant-Commander Reiter, commanding the United States steamer *Ranger*, then in the port of San José, as follows:

General Barrundia is on the *Acapulco*. Guatemala alleges that he is hostile, and, being in their waters, they can arrest him. I think that they have the right.

This telegram, of which the text is taken from Lieutenant-Commander Reiter's report of August 28 to the Navy Department, is not found among the annexes to your reports. The occasion of sending it does not appear, whether at the instance of the Guatemalan authorities or as a voluntary act on your part. It was received on board the *Ranger* August 27 at 6:30 p. m. Lieutenant-Commander Reiter went immediately ashore and at 7 p. m. sent to you the following telegram:

Barrundia expected in steamer. As peace is declared, I suggest that you ask Government to permit *Thetis* to take him to Acapulco, we acknowledging their municipal rights over steamer. Steamer *Acapulco* in sight.

Soon after this the *Acapulco* entered the limits of the port, anchoring, as usual, at some distance from the shore. Captain Pitts thereupon went ashore and sent to you a telegram in these words:

Shall I deliver General Barrundia to the authorities here? If so, please send me a letter with your signature to that effect.

Lieutenant-Commander Reiter's telegram, dispatched at 7 p. m., is marked as reaching the telegraph office in Guatemala City at 8 o'clock. Captain Pitts's telegram, sent an hour or two later, is marked as received in the office at 9:46. Both telegrams were delivered to you at 10 p. m. No explanation of the evident delay in communicating the commander's dispatch is vouchsafed.

When these two telegrams reached you, the secretary for foreign relations was present in your parlor. You referred to him Lieutenant-Commander Reiter's suggestion, "but it was positively declined in view of all the circumstances, to wit, that Guatemala had, on the 21st day of July, decreed martial law throughout the Republic, which decree is still in force, and did, on the 23d of July, formally declare war against the Republic of Salvador, which declaration is yet in full force."

Having information, derived, as you say, from a daughter of General Barrundia, that he intended to land at La Libertad, a port of Salvador, notwithstanding that he had a ticket for Panama, and mindful of the antecedents of the general and his attempted invasion of Guatemala from Mexico, you decided to advise the captain of the steamer to submit to the arrest of his passenger; and to that end you wrote, on the same evening, the following letter to Captain Pitts:

UNITED STATES LEGATION IN CENTRAL AMERICA,

Guatemala, August 27, 1890—10:30 p. m.

SIR: If your ship is within 1 league of the territory of Guatemala and you have on board Gen. J. M. Barrundia, it becomes your duty, under the law of nations,

to deliver him to the authorities of Guatemala upon their demand, allegations having been made to this legation that said Barrundia is hostile to and an enemy to this Republic. Guaranties have been made to me by this Government that his life shall not be in danger, or any other punishment inflicted upon him other than for causes stated in the letter of Señor Anguiano to Consul-General Hosmer, dated yesterday.

I have, etc.,

LANSING B. MIZNER,
United States Minister.

Captain W. G. PITTS,
Commanding Pacific Mail Steamship Company's steamship *Acapulco*.

As this letter was not forwarded to Captain Pitts by post, but was handed to him the next day by the commandant at San José, it is presumed, although you do not state the circumstance, that you delivered it to Señor Anguiano as a compliance with his demands; and the further inference, so strongly arising as to be fully justified, is that Señor Anguiano was acquainted with its contents and accepted them as conforming to his views.

You also telegraphed to Lieutenant-Commander Reiter as follows, the text, as before, being taken from his report to the Secretary of the Navy, you having omitted to furnish the Department with a copy:

This Government declines offer to take Barrundia away in *Thetis*. Have advised Captain Pitts to deliver him.

This telegram reached Commander Reiter at 9:30 a. m. the next day, August 23. The *Acapulco* still lay at anchor in the port of San José, where, it is said, she was commanded by a large Krupp cannon which had been sent from Guatemala City at the time of the *Colima* arms seizure and mounted to range the anchorage. You state that you were aware of this, and apprehensive that the Government of Guatemala "might resort to force in arresting a passenger on one of our vessels, and thereby endanger the lives of innocent passengers;" but you were not informed of what has since been avowed "distinctly and with emphasis" by Señor Anguiano in an interview you had with him on September 18, and confirmed by a communication said to have been addressed to the United States consular agent at San José on the 15th of August last, that the Government "had given Colonel Toriello positive orders to arrest and take Barrundia from the steamer *Acapulco*, port of San José, using all power necessary for that purpose, even to sinking the ship, notwithstanding it might have involved a conflict with our two war vessels then and there present."

On the afternoon of August 23, at about 2 o'clock, the commandant went out to the *Acapulco* with a guard of several (Lieutenant-Commandant Reiter says 3 or 4) policemen and delivered to Captain Pitts the letter you had written the night before. No warrant of arrest or legal power to take the accused into custody appears to have been exhibited. The contents of the letter having been made known, Captain Pitts took the precaution "to notify the cabin passengers to go below into the dining saloon and steerage passengers to keep forward." The reason of this precaution may be inferred from Captain Pitts's apprehensions, previously expressed while at Champerico in his telegram to you, that General Barrundia would resist arrest and perhaps be aided in his resistance by some of the passengers.

Captain Pitts then went with the commandant to the stateroom on the hurricane deck occupied by General Barrundia. He opened the door, and the captain informed him of the purport of your letter. General Barrundia then reached into his room, drew two revolvers from the bed, and fired one shot between the captain and the comman-

dant. They fled aft, the general pursuing them and firing again as they took refuge in another stateroom. The principal witness having thus withdrawn from the scene, no intelligent account of what followed can be gathered. Captain Pitts, in his affidavit made before Mr. Hosmer September 16, says:

Then the detectives shot at him, and the firing became general between the detectives on one side and General Barrundia on the other. Probably fifty shots were fired in all before General Barrundia was killed. The body was taken on shore by the authorities.

On the 30th of August a telegraphic report of the occurrence was received from you in cipher to the effect that "General Barrundia, having resisted arrest on board the *Acapulco*, was, after having fired the first shot, killed by Guatemalan officers." You added that you "had advised the officers and Captain Pitts that you had guaranties for General Barrundia's personal safety, and that you joined the consul-general in advising the captain to permit the arrest on the charge of being an enemy, martial law being in force." Your telegram was delayed two days in transmission.

Mr. Wharton, then Acting Secretary of State, telegraphed to you on September 2 in cipher to the effect that—

As General Barrundia entered the jurisdiction of Guatemala at his own risk, the assumption of jurisdiction by the Guatemalan authorities was at their risk and responsibility, and that it was regretted that you have advised or consented to the surrender, as no specific charge of violation of the ordinary law of Guatemala appeared and the treatment of General Barrundia as an enemy under martial law was alone alleged.

The more the question is examined in the light of important facts tardily disclosed the deeper becomes the regret that you so far exceeded your legitimate authority as to sign the paper which, in the hands of the officers of Guatemala, became their warrant for the capture of General Barrundia.

The demand of the Government of Guatemala that the representatives of the United States in that country should become parties to the accomplishment of General Barrundia's capture by directing the captain to surrender him is based on complex and unusual grounds, which must be examined somewhat in detail. But it rests chiefly on the allegation that General Barrundia, by reason of his revolutionary antecedents, his recent attempt to invade Guatemala from Mexico, and his supposed purpose to land in Salvador, was contraband of war. And it is also asserted that he could not, under the stipulations of the contract between the Pacific Mail Steamship Company and the Government of Guatemala, be carried on any of its steamers to Salvador.

It can not be pretended that the frustrated attempts of General Barrundia to subvert the ruling power in Guatemala had created a state of public war and invested the Government of that country with belligerent rights. It is true that he was said to be "hostile" and an "enemy," but those terms were obviously not employed in the sense in which they are understood in public law when we are considering such questions as "contraband" and the "right of search." On the contrary, they were clearly intended to describe him as a person entertaining rebellious designs against the existing government, such as savored of the political offense of treason. The only war that had existed was that with Salvador, and that subject, so far as it relates to the present case, I shall now consider.

Many writers on international law assimilate the carrying of military persons in the service of a belligerent to the carrying of contraband goods. But, in order that the question of "contraband of war" may

arise, both as to the vessel and the person carried, three things are essential. In the first place, there must be an actual state of war. This is self-evident; for, if the mere apprehension of war were sufficient, nations whose relations were such as to excite anxiety might continuously exercise the right of search. In the second place, in order that the vessel may be condemned for carrying contraband, it must be shown that she knowingly carried it in such a way as to make it clear that it was her intention to take part in the war. In the third place, in order that the person may be treated as contraband, it must appear that he is in the service of the enemy. This requirement is found in many of our treaties and was embodied in article 14 of the extinct treaty of 1849 between the United States and Guatemala, by which it was strictly provided that persons on board of the ships of the contracting parties in time of war should not be taken out unless they were "*officers or soldiers and in the actual service of the enemies.*"

While the revolutionary attempts of General Barrundia, initiated, as is stated, months before the change of government in Salvador that precipitated the recent hostilities, may have found renewed opportunity in the disturbance incidental to a state of war, it is not charged that he was an officer or soldier in the military service of Salvador, or that he was in anywise associated with her cause. Señor Anguiano's letter of August 26 to Consul-General Hosmer charges that Barrundia was a Guatemalan general who had raised the standard of factional revolt against the existing administration of that country. His undated proclamation, of which copies, said to have been found among General Barrundia's personal effects, have been communicated to you by Señor Anguiano, in corroboration of the accusations against him, is an incitement to native Guatemalans to revolt against the existing Government and to set up another in its place. In Señor Anguiano's letter to you of the 27th of August, as in that of the preceding day to Mr. Hosmer, no attempt is made to associate him with the belligerent acts of Salvador. If, therefore, a state of war had then existed, the grounds alleged as the basis of the demand for General Barrundia's surrender as contraband would not have been acceptable.

But, in reality, hostilities had ceased, and, in view of this fact, the impropriety of the demand for the surrender of General Barrundia as contraband of war is not mitigated by Señor Anguiano's appeal to martial law. In his interview with you on the evening of the 27th of August he declared that martial law was decreed in Guatemala on the 21st of July (two days before the declaration of war with Salvador) and still existed. At the same time he is reported to have said that the declaration of war against Salvador, made on the 23d of July, was also still in force. But by this he can scarcely be supposed to have meant more than that the declaration had not been formally withdrawn. For, as has been seen, the bases of peace were signed by President Ezeta, of Salvador, on the 25th of August, and were formally accepted and proclaimed by Guatemala on the following day, with orders for the disarming and retiring of the forces of Guatemala on the Salvadorian frontier. The war had thus come to an end both nominally and in fact, and martial law could no longer be said to exist as that term is generally employed in public law. "Martial law," says Halleck, "exists only in time of war, and originates in military necessity." Speaking on the same subject, the Supreme Court of the United States said :

Martial law can not arise from a threatened invasion. The necessity must be actual and present; the invasion real, such as effectually closes the courts and deposes the civil administration. (*Ex parte Milligan*, 4 Wallace, 127.)

Martial law, therefore, in this sense, did not exist in Guatemala on the 27th of August last; and Señor Anguiano's appeal to the decree of "martial law" of July 21, in order to show that there was still a state of public war, was wholly unwarranted and at variance with facts well known to yourself. His appeal to "martial law" may doubtless be explained by the fact that, by the thirty-ninth article, title 2, of the constitution of Guatemala of 1879, the President and his council may, if the national territory is invaded or attacked, "or if the public tranquillity is in anywise menaced," by a decree suspend all the guaranties of personal liberty set out in that article. The exercise of this power might, it is conceived, produce disorders not unlike those that may result from war; but it can not create a condition of affairs which other nations may be asked to treat as a state of war, with all the legal consequences to their citizens, or to their vessels, with their passengers and cargo.

The right of visitation and search and of seizure and confiscation of contraband is a belligerent right and an act of war. It is compatible only with a state of hostilities; so that it is laid down by the publicists as an elementary rule that, if the forces of a belligerent, during a general truce, capture prizes without notice of the suspension of hostilities, such prizes must be restored.

In order to fortify the demand for the surrender of General Barrundia as contraband of war, Señor Anguiano appealed to the contract between the Guatemalan Government and the steamship company, which contains this clause:

XVII.—This company binds itself not to permit troops or munitions of war to be carried on board of its steamers from any of the ports of call to the ports of or adjacent to Guatemala if there be reason to believe that these materials may be used against Guatemala or that war or pillage is intended.

Obviously, this is the stipulation that was referred to by Señor Anguiano when, in his note to Mr. Hosmer of August 26, he said the steamship company "should not permit the bringing or taking to Guatemala, nor to the adjacent countries, any element of hostility in time of war, such as exists at this time." It is also doubtless the stipulation to which you advert when, in your No. 150 of the 29th of August, you say, in justification of your course, that the Government of Guatemala claimed the right to arrest Barrundia "under its contract" with that company.

This is not the first appeal that has been made by the Government of Guatemala to the provisions of the contract with the company. They were invoked in the recent seizure of arms on board of the *Colima*, and it is not improbable that the position you then assumed encouraged the Government to invoke them again. On that occasion the arms were shipped from San Francisco, in the United States, on board of the Pacific Mail steamer *Colima* for Salvador. At the port of San José, in Guatemala, the port at which General Barrundia was afterwards killed, the Government of Guatemala sought to seize them, in view of contemplated hostilities with Salvador. You then intervened to bring about a supplementary contract whereby the company engaged to reconvey the arms to a "neutral port." Nevertheless, while the arms were being unshipped and transported for that purpose, the Government of Guatemala seized them and temporarily converted them to its own use, and you were then constrained to base your protest on the violation of the special agreement entered into by you rather than upon the arbitrary infraction of international law that had been perpetrated.

The President deeply regrets that you should, either on that occasion

or on the attempted seizure of General Barrundia, have found any warrant or excuse for the action of Guatemala in the terms of her contract with the Pacific Mail Company. The effect of such a contract upon the rights and responsibilities of the carrier it is not necessary now to consider; but the President holds it to be clear that the contract could not affect the rights of any person or thing carried, as those rights are secured under the general principles of international law. Much less could it limit and control the right and duty of this Government in respect to persons and property on vessels flying its flag. To admit that a government may, by the contracts which it is able to obtain, fix the measure of its power over foreign vessels and whatever may be on board, and at the same time limit the rights and duties of the government whose flag such vessels carry, would destroy the foundation of maritime law and render intercourse between nations altogether uncertain and hazardous.

The article in question does not, however, in terms assume to confer any such power or make any such waiver in favor of Guatemala. It stipulates merely that the company will not convey certain persons and things in certain cases; not that Guatemala shall or may take them from its ships, or exercise in respect of them any arbitrary control whatever.

It is proper to insist upon this point, since you appear to have attached great importance to this provision of the contract and to have assumed that it was the duty of this Government, through you as its representative, to intervene in regard to the fulfillment of its terms, not only in respect to the vessel, but also in respect to what it carried.

I have not failed to notice that Señor Anguiano, in his note to you of the 27th of August, said that General Barrundia was "being prosecuted by the ordinary tribunals with decree of formal arrest for common crimes," but immediately added that "besides, while a fugitive from the Republic," he had "organized armed factions to disturb its internal tranquillity" that required "to be suppressed." With this statement, Señor Anguiano returned to the argument that General Barrundia should be given up as contraband of war, and did not demand his surrender as a common criminal. It is possible that if Señor Anguiano had seen fit to specify and describe the "common crimes" for which General Barrundia was being prosecuted there might have been some room for difference of opinion as to their character. But they were neither specified nor described, and it is remarkable that no reference to them is found other than that passing allusion which has been pointed out. The commandant at Champerico wrote to the consular agent that, as General Barrundia had borne arms against Guatemala, he was guilty of "high treason and other crimes, as the public well know." The letter of Señor Anguiano to Mr. Hosmer placed the demand for his surrender on the ground that he was "hostile." The letter of Señor Anguiano to yourself treated him as contraband of war and placed the right to capture him on that ground. And your subsequent letter to Captain Pitts, upon which the capture was attempted, informed him that it was his duty to deliver General Barrundia "to the authorities of Guatemala upon their demand, allegations having been made to this legation that said Barrundia is hostile to and an enemy to this Republic." This, therefore, is the ground on which the surrender was demanded and by you authorized to be made, and the reference to "common crimes" may be dismissed from further consideration.

Having fully reviewed the facts in the case, and, as it is conceived, demonstrated the impropriety and illegality of Guatemala's specific

demands upon the representatives of the United States, I pass to the consideration of the right of the Government of Guatemala to take General Barrundia out of the ship, and to the consideration of your authority, as the responsible representative of your Government, to sanction such a step.

It is laid down by the publicists as a general rule that the private vessels of a nation, as contradistinguished from its men-of-war, are, on entering the ports of another nation, not exempt from the local jurisdiction. At the same time it is stated that this rule is not absolute and unlimited, but that it is subject to important qualifications, both general and special. The vessels of a nation on the high seas are commonly spoken of as a part of its territory, and this character is not destroyed by their entrance into the port of another nation, although by such entrance they may, to a great extent, also become subject to another jurisdiction. This principle was so clearly and cogently expressed by Mr. Webster in the case of the *Creole* that I will quote from his discussion of that case the following passages:

A ship, say the publicists, though at anchor in a foreign harbor, preserves its jurisdiction and its laws. It is natural to consider the vessels of a nation as parts of its territory, though at sea, as the state retains its jurisdiction over them; and, according to the commonly received custom, this jurisdiction is preserved over the vessels even in parts of the sea subject to a foreign domination. This is the doctrine of the law of nations, clearly laid down by writers of received authority, and entirely conformable, as it is supposed, with the practice of modern nations. If a murder be committed on board of an American vessel by one of the crew upon another or upon a passenger, or by a passenger on one of the crew or another passenger, while such vessel is lying in a port within the jurisdiction of a foreign state or sovereignty, the offense is cognizable and punishable by the proper court of the United States in the same manner as if such offense had been committed on board the vessel on the high seas. * * * It is true that the jurisdiction of a nation over a vessel belonging to it while lying in the port of another is not necessarily wholly exclusive. We do not so consider or so assert it. For any unlawful acts done by her while thus lying in port, and for all contracts entered into while there by her master or owners, she and they must doubtless be answerable to the laws of the place. Nor, if her master or crew, while on board in such port break the peace of the community by the commission of crimes, can exemption be claimed for them. But, nevertheless, the law of nations, as I have stated it, and the statutes of governments founded on that law, as I have referred to them, show that enlightened nations, in modern times, do clearly hold that the jurisdiction and laws of a nation accompany her ships, not only over the high seas, but into ports and harbors, or wheresoever else they may be water-borne, for the general purpose of governing and regulating the rights, duties, and obligations of those on board thereof, and that, to the extent of the exercise of this jurisdiction, they are considered as parts of the territory of the nation herself. (Webster's Works, vol. 6, pp. 306, 307.)

These principles were recently applied by the Supreme Court of the United States in the case of *Wildenhus*. In that case a murder was committed on board of a Belgian vessel in the port of Jersey City, in the State of New Jersey. The Belgian Government claimed exclusive jurisdiction of the offense under its treaty with the United States. The Supreme Court did not admit this claim, but, holding that the treaty was merely declaratory of the law of nations, said:

The principle which governs the whole matter is this: Disorders which disturb only the peace of the ship or those on board are to be dealt with exclusively by the sovereignty of the home of the ship; but those which disturb the public peace may be suppressed, and, if need be, the offenders punished, by the proper authorities of the local jurisdiction. It may not be easy at all times to determine to which of the two jurisdictions a particular act of disorder belongs. Much will undoubtedly depend on the attending circumstances of the particular case, but all must concede that felonious homicide is a subject for the local jurisdiction, and that if the proper authorities are proceeding with the case in a regular way the consul has no right to interfere to prevent it. (*Wildenhus's case*, 120 U. S., 1, 18.)

Many instances might be given of the abstention of the local authorities from assuming jurisdiction over matters affecting foreign vessels, but I will cite in this relation only the offense of desertion. The arrest and return of deserters has always been treated by this Government as analogous to extradition, and our authorities take no cognizance of it except under treaty.

Such, then, is the general rule and such are its general limitations. In this relation it may be observed that Calvo states the rule as follows:

To sum up, as regards merchant vessels, for all crimes or offenses committed by seamen, either on board or ashore, against foreigners, or in such a way as to disturb public order or to affect the interests of the country in whose waters the vessel is at anchor, as well as for matters in which the parties interested ask of their own accord the aid and support of the local authorities, the police of the country have an absolute right to pursue the guilty party even on board of the vessel to which he belongs, if he has succeeded in taking refuge there, provided in this latter case they come to an understanding with the consul of the nation interested. (Calvo, *Le Droit international*, 4th ed., section 471.)

In ordinary cases of arrest of criminals under legal process such concurrent action or permission has been the general practice among the Spanish American countries, and there are many recent instances in which it has been observed. I am unaware of any reported case where the arrest was made or the demand enforced in the event of a refusal on the part of a representative of the nation to which the vessel belonged to act concurrently or to grant the permission sought.

But the rule is also subject to special exceptions, resting upon consent and secured either by express compacts or by custom. This principle is so clearly enunciated by Chief-Justice Marshall that I will quote that great jurist's statement of it, which is as follows:

This consent may be either expressed or implied. In the latter case it is less determinate, exposed more to the uncertainties of construction, but, if understood, not less obligatory. The world being composed of distinct sovereignties, possessing equal rights and equal independence, whose mutual benefit is promoted by intercourse with each other and by an interchange of those good offices which humanity dictates and its wants require, all sovereigns have consented to a relaxation in practice, in cases under peculiar circumstances, of that absolute and complete jurisdiction within their respective territories which sovereignty confers. This consent may, in some instances, be tested by common usage and by common opinion growing out of that usage. (Case of the schooner *Exchange*, 7 Cranch, 116.)

As an illustration of the exceptions that prevail in some places, I may cite the recent case of the British steamer *Charles Morand*, on which the first officer was, in July, 1889, killed by a sailor, one Peter Lynch, while the steamer was lying in the port of Manzanillo, in the island of Cuba. Notwithstanding the gravity of the offense, the local authorities declined to take jurisdiction of it, and the offender was brought to the city of New York, where he was arrested with a view to extradition. The case was duly examined by judicial authority and the prisoner committed to wait the action of the Executive, upon whose warrant he was subsequently delivered up to be tried in England for the murder charged to have been committed on the British steamer in the port of Manzanillo.

The general principles and the exceptions governing the subject under consideration have so far been discussed in relation to common crimes, but the circumstances of the case of General Barrundia require a special examination of those principles and exceptions with regard to political offenses. Not only in respect to extradition, but also in respect to all matters in which the coöperation of foreign governments is required, the law of nations contains a clear distinction between ordinary criminals and political offenders.

By many writers it is asserted to be the duty of nations to assist in the recovery of fugitives from justice, but even those that maintain the most extreme doctrine on that subject hold that it is a part of every nation's independence and sovereignty to grant asylum to those who are sought to be prosecuted for their political acts. Referring to this subject, in relation to our treaties of extradition with Great Britain, a distinguished predecessor in this office said:

Neither the extradition clause in the treaty of 1794 nor in that of 1842 contains any reference to immunity for political offenses or to the protection of asylum for political or religious refugees. The public sentiment of both countries made it unnecessary. Between the United States and Great Britain it was not supposed on either side that guaranties were required of each other against a thing inherently impossible any more than by the laws of Solon was a punishment deemed necessary against parricide, which was beyond the possibility of contemplation. (Mr. Fish to Mr. Hoffman, May 22, 1876.)

"To surrender political offenders," said Mr. Marcy, "is not a duty, but, on the contrary, compliance with such a demand would be considered a dishonorable subserviency to a foreign power and an act meriting the reprobation of mankind." It is believed that these declarations express the sentiment of the civilized world, and it is certain that any departure from them would be execrated by the people of the United States.

For reasons, therefore, of national independence and of humanity political offenses have been treated by publicists as constituting a separate class and as demanding a different consideration and treatment from ordinary crimes; and, because of their special character, they have also been the subject, in many instances and in many places, of a very considerable abatement of jurisdictional claims. In proof of this fact it is pertinent to consult the "common usage" and the "common opinion growing out of that usage," to which Chief Justice Marshall referred as evidence of that national consent which may make the law for a particular place or for particular countries, and which, as he declared in another part of his opinion, can not be "suddenly and without previous notice" withdrawn by a nation without a violation of its faith.

The records of this Department afford several comparatively recent instances of the arrest of alleged offenders on American vessels in Spanish American ports. In these cases the consular or diplomatic officer has invariably been applied to for his consent, and proof has been furnished in authentic legal form of the crime alleged. Where there has been ground for the suspicion that the application bore a political complexion, ample proof has been adduced that the offenses charged were ordinary in their character. This fact has been made the basis of the request for the consent of the foreign representative to the arrest, and the Department is not informed of any case in which the arrest has been made when the representative of the United States withheld his consent or the demand wore a political aspect.

An illustration of the course pursued in respect to an ordinary crime is found in the case of Leopoldo Olivella, who, being accused of murder at Matanzas, in the island of Cuba, in 1880, fled to the United States. Some months later he took passage at New York under an assumed name on the American steamship *City of Alexandria* for Vera Cruz, in Mexico, Havana being a regular port of call. The Cuban authorities, learning of his departure from New York, applied to the consul-general at Havana for a letter to the captain of the steamer directing him to surrender Olivella to the chief of police. The consul-general telegraphed to the Department, which, in replying, did not authorize the surrender,

but confined itself to instructing him to secure to the accused all the treaty rights to which he might be found to be entitled. While the steamer lay in port the consul-general went on board, followed by the chiefs of police of Havana and Matanzas, who were provided with a regular warrant of arrest and accompanied by witnesses to the fugitive's identity. After interrogation and complete identification, Olivella consented to go ashore, stipulating, however, that legal steps should be taken by the superior authorities of the island "to demand his extradition from the Government of the United States to the end that the said Government may give its decision on this point." A certificate of the proceeding, embracing this stipulation, was accordingly drawn up and signed by the accused and by the several officers present, and the Spanish minister subsequently presented it to the Department of State, with the evidence in the case, including the indictment and warrant of arrest, in order that this Government might be "fully satisfied with the formalities which have been observed in the matter of the arrest of Olivella."

The course pursued in a case having a political aspect and the recognition of that aspect as of substantial importance may be illustrated by the case of Emilio Nuñez during the late insurrection in the island of Cuba. Nuñez, who is said to have taken part in an insurgent raid near Sagua, escaped to the United States, where he declared his intention to become a citizen. In 1884 he returned to Sagua as one of the crew of an American vessel, remaining on board while in the port. The acting consul of the United States at Sagua was applied to by the chief of police for authority to take Nuñez from the vessel. The acting consul asked instructions of the consul-general at Havana, and General Badeau replied authorizing the surrender if the charge was criminal, not political. When information was sought on this point, evidence was produced to the acting consul that Nuñez was charged before the regular courts with various crimes, "among others, assassination and robbery, as a bandit, of Don Amando Denis, at San Diego del Valle, and is therefore a criminal, and not a political, offender." Thereupon the acting consul gave his written consent to the surrender. It was afterwards disclosed that Nuñez had been amnestied by the governor of the province and permitted to leave the island after the process on account of murder and robbery had been instituted, and he was subsequently released without formal trial. In this instance it is clear that the instructions of the consul-general assumed to impose upon the acting consul at Sagua the function of ascertaining the charge and basing his consent on proof of its non-political character, and this condition was acquiesced in by the Cuban authorities.

The theory and practice disclosed in Cuba are believed to have been observed without exception in Central America, certainly as to American vessels, until the case of General Barrundia. This fact may pertinently be illustrated by a case that occurred in Guatemala in September, 1884, when an oral request was made by Señor Cruz, then minister for foreign affairs, of Mr. H. Remsen Whitehouse, the consul-general of the United States, looking to his concurrence in the proposed detention of two men, Modesto Huerte and Francisco Ruiz Sandoval, who were alleged to have taken an active part in a then recent insurrection on the Mexican frontier, and who were passengers in transit on the Pacific Mail steamer *Clyde*, then lying in the port of San José. Mr. Whitehouse, with commendable discretion, answered Señor Cruz in writing that he did not consider himself authorized to act in the matter; and the arrest was not effected.

A still later case is that of Gomez, in Nicaragua, to which you advert as more than justifying your course in respect to General Barrundia. I have carefully examined that case, and am compelled to entertain a very different impression. Gomez, who is said to have been a political fugitive from Nicaragua, took passage in a Guatemalan port for a port in Costa Rica on the Pacific Mail steamship *Honduras*, with knowledge that the vessel would, in transit, enter the port of San Juan del Sur, in Nicaragua. Mr. Hall, then our minister to Central America, before learning of an application made by the Nicaraguan minister for foreign affairs to the United States consul at San Juan del Sur, but upon report that such action would be taken, telegraphed to the consul as follows :

Say respectfully to the minister for foreign affairs that our Government never has consented, and never will consent, to the arrest and removal from an American vessel in a foreign port of a passenger in transit, much less if offense is political.

The consul so answered the minister for foreign affairs of Nicaragua. On the arrival of the *Honduras* at San Juan del Sur the authorities requested the captain to deliver Gomez. This he declined to do, and set sail without clearance papers. For this offense against the revenue laws of Nicaragua an action was instituted in the courts and the captain adjudged guilty by default, and here the matter appears to have been terminated. No arrest or attempt to arrest was made, and the steamer continued on her voyage without molestation. In reporting the case to the Department, Mr. Hall, the minister of the United States, in support of his conduct on that occasion, cited "many cases" of similar character that had occurred at Havana during the Cuban insurrection, when he was serving the Government of the United States at that place in a consular capacity; "and in every case," he says, "with one exception, where the Department was consulted as to the surrender of the party, a negative answer was returned. The exception was that of one Olivares [Olivella], who was charged with the crime of assassination." Mr. Hall also referred to the then recent case in Guatemala in which Mr. Whitehouse was concerned, and to which I have already adverted.

Mr. Bayard, then Secretary of State, in his instruction to Mr. Hall, No. 226 of March 12, 1885, after reviewing the facts so far as known and adverting to the incompleteness of the information as to the proceeding against the captain, said :

Under the circumstances, it was plainly the duty of the captain of the *Honduras* to deliver him (Gomez) up to the local authorities upon their request.

By this, I take it, Mr. Bayard expressed his opinion that the captain, being within the local jurisdiction of a foreign state, might not resist the orderly application of its law to a passenger on board his ship. There is no suggestion that it was the duty of the United States minister to intervene by concurrence or express consent to effect the arrest, either with or without conditions as to the nature of the proceedings against the accused or the penalty to be inflicted. I have yet to find in the records of this Department the faintest trace of any instruction to that end or the slightest warrant for the assumption by any diplomatic or consular representative of authority so to act. It should also be noticed that Mr. Bayard discussed the situation simply from the point of view of the absolute jurisdiction of the country in which the port lies, for, immediately after the sentence above quoted, he says :

It may be safely affirmed that when a merchant vessel of one country visits the ports of another for the purposes of trade it owes temporary allegiance and is amenable to

the jurisdiction of that country, and is subject to the laws which govern the port it visits so long as it remains, unless it is otherwise provided by treaty.

Any exemption or immunity from local jurisdiction must be derived from the consent of that country. No such exemption is made in the treaty of commerce and navigation concluded between this country and Nicaragua on the 21st day of June, 1867.

There is no reference here to the special conditions that may sometimes and in some places exist, nor to that "common usage" and "common opinion" spoken of by Chief Justice Marshall, which are such familiar evidences of the law and determine its existence, not only among nations, but also in individual states.

But between the general doctrine as broadly laid down by my predecessor in office and your action in respect to General Barrundia's seizure there is an impassable space. I am aware that it may be said that after all you merely advised the captain of his duty. But the captain did not simply seek *advice*. In his telegram from Champerico he says that on his arrival at San José he will place himself "under the orders of the American minister." He again telegraphed to you later from Champerico that he was "awaiting your instructions," and that at San José he expected "your written orders." In his last telegram to you, dispatched from San José on arriving at that port on the evening of August 27, he categorically inquires:

Shall I deliver General Barrundia to the authorities here? If so, please send me a letter with your signature to that effect.

There is not here the slightest suggestion that Captain Pitts proposed to act otherwise than by your orders and under your responsibility. It was under these circumstances that you wrote the letter which became, in the hands of a Guatemalan official, the pretext of the attempted seizure of General Barrundia.

I have adduced ample evidence to show that in respect to political offenders a very considerable and important exception has in practice been made in Spanish American countries to the general rule as to the exercise of jurisdiction over foreign vessels. The same exception is also found to exist there in the case of asylum in foreign legations. It is a general principle that an ambassador or other public minister is not permitted to grant an asylum to offenders in the country in which his legation is established. But an exception to the rule has been made in respect to political offenders, and nowhere has it more generally prevailed than in Spain and in the countries of Spanish America. It is proper to say that the Government of the United States has never encouraged an extension of this exception, for the reason that it is likely to lead to abuse. But at the same time it has on grounds of humanity frequently found itself obliged to maintain it. That it has done so with regret is due not more to its indisposition to exercise exceptional privileges than to the deplorable fact of the recurrent disorders which have so often caused those in power suddenly to seek a place of refuge from the hot and vindictive pursuit of others who have been able violently to drive them from their positions. It is to this unfortunate and unsettled political condition that the extension of asylum to political offenders is attributable, and it is believed that the consideration of self-interest arising from a sense of insecurity has not infrequently permitted the exercise of the privilege to pass without strenuous objection. Under these circumstances especially, no nation could acquiesce in the sudden disregard, or heed a demand for the peremptory abandonment, of a privilege sanctioned by so general a usage.

The causes that have operated to foster the maintenance of an asylum for political offenders in legations have contributed, perhaps even more

powerfully, to secure a place of refuge for them on foreign vessels. In the first place, their presence on the latter, whether they are simply fleeing from pursuit or are in transit from one foreign country to another, being connected with the purpose of immediate departure, does not so directly tend to fan and perpetuate the popular frenzy as the spectacle of immunity without flight. In the second place, the principal means of communication between the countries of Spanish America is by water, and it has been a matter of common interest to permit such communication to be undisturbed by political events. These considerations peculiarly apply to the vessels of the Pacific Mail Steamship Company, which for many years have been the principal vehicles of transportation, especially for passengers, between several of those countries. Plying between San Francisco and Panama as terminal points, they call at various Central American ports, halting as long as may be necessary to unship and ship cargo, and lying at anchor for that purpose some distance from the shore. While it is true that, being in the ports of the country, the mere circumstance that they are not fastened to a wharf or brought close inshore does not exempt them from the local jurisdiction, yet it is proper to be taken into account as an explanation of the fact that considerations of convenience and interest have been more important and actual than the question of public order and tranquillity.

It is not doubted that in the many years during which the vessels of the Pacific Mail Steamship Company have plied between San Francisco and Panama they have carried scores and hundreds of persons who have been concerned in political broils and insurrectionary movements in the countries at whose ports they call. Yet the Department is not informed of a single instance in which the peace of the vessel has been disturbed by the seizure of a person on board for any political cause. So far as the Department is able to ascertain, it is the common opinion that such a right of seizure is not asserted or supposed to exist. This is the "common opinion" of which Chief Justice Marshall spoke as evidence of that "common usage" which determines the law. No better evidence of that opinion could be adduced than the instances which have been disclosed, and with them we may include that of General Barrundia himself, of political fugitives who have gone on board of those vessels knowing that they would call at ports in which their lives would be sacrificed if they went on shore.

I have said that no better evidence than this fact could be adduced. There is, however, one other circumstance that may be regarded as still more significant, and that is the conduct of the Guatemalan authorities on this particular occasion. To place this in its true light it is only necessary briefly to summarize the various steps taken by them up to the time of the attempted seizure, as follows:

- (1) The communication of the commandant at Champerico to the consular agent of the United States at that place, informing him that the Government of Guatemala intended to seize General Barrundia and requesting him to lend his aid so that the general might be delivered up.

- (2) The reference in this same communication to the extradition treaty, which was said to apply to the case.

- (3) The telegram of Mr. Hosmer to the consular agent at Champerico on the 25th of August, placing the right of seizure on the ground that the Government of Guatemala could search foreign vessels in her own waters for persons suspected of hostility "in time of war."

- (4) The repetition of this telegram to the captain of the *Acapulco* at the request of the President of Guatemala.

(5) The refusal of the captain of the *Acapulco*, accustomed to ply in those waters, to surrender his passenger, and his notification that he placed himself under the orders of the United States minister.

(6) The omission of the authorities at Champerico, in the face of this refusal, although they had the full sanction of the consul-general of the United States, to make the seizure at that place.

(7) The assertion in the letter of the minister of foreign relations to Mr. Hosmer of a right to search foreign vessels in territorial waters *in time of war* and capture those suspected of being hostile.

(8) The reference in the same letter to the contract with the company as the basis of a right to search and capture.

(9) The guaranty given to you by the President and secretary of foreign relations on the night of the 26th of August that the life of General Barrundia should be spared and that his prosecution should be limited to certain offenses.

(10) The reference in your telegram to Captain Pitts of the 27th of August, after your conference with the President and minister of foreign relations, to the right to arrest a person on a *neutral ship in time of war*.

(11) Your letter of the same date to the minister of foreign relations affirming that position and asking guaranties for the treatment of General Barrundia.

(12) The reply of the minister of foreign relations, who seems to shift his ground by an allusion to "common crimes," but still bases his assertion of the right to seize on the doctrines of contraband, which apply only to a state of war, and gives the guaranties which you requested.

To these twelve evidences may be added the terms in which Señor Anguiano rejected Commander Reiter's proposition, referring again to a state of war and the exercise of belligerent rights, as well as to the alleged existence of "martial law."

It is no exaggeration to say that these various and unquestionable facts are not compatible with any other theory than that the authorities of Guatemala knew that they were suddenly and without notice violating an established usage. If they had felt that they were acting within their acknowledged right, it would have been unnecessary to appeal to the doctrine of contraband, which was applicable solely to a state of war which had ceased to exist, and which would not, upon the facts then known, have been applicable to General Barrundia, even if war had been flagrant. It is proper to notice that you observed the incongruity of the Guatemalan position as to General Barrundia's status, but, unfortunately, you did not take a stand against it. You observed in your letter to Señor Anguiano of the 27th of August that the case was "an unusual one, taken in connection with the peace which was practically concluded last night, and of which a general amnesty was a part." The case was, indeed, most unusual; for, if General Barrundia was in the service of the enemy, he came within the amnesty; if he was not in that service, he could not have been treated as contraband. So that on the one or the other horn of the dilemma the Guatemalan demand must fall.

One other feature of the case yet remains to be considered, that is, your communications to Commander Reiter, of the United States steamship *Ranger*, and your failure to avail yourself of the presence of that vessel. As has already been shown, you sent him two telegrams which you failed to report to this Department. The occasion of your sending the first one does not appear; but it was sent before the arrival of

the *Acapulco*, and seems to have been intended to facilitate rather than discourage the design of Guatemala to seize General Barrundia at San José. Upon the receipt of this telegram, Commander Reiter went ashore and telegraphed to you, suggesting that, as peace was declared, you should ask the Government to permit the United States steamship *Thetis* to take General Barrundia from the steamer then in sight and carry him back to the port of Acapulco, in Mexico. Your second telegram, which was in reply to this, informed Commander Reiter of the rejection of this offer by the Government of Guatemala and stated that you had "advised" Captain Pitts to deliver his passenger to that Government. The naval force of the United States in those waters thus became an acquiescent spectator of events, although a merchant vessel of the United States was then lying under the muzzle of guns manned by men who, as you state you had every reason to believe, were prepared to resort to any act of violence, "even," as Señor Anguiano has since declared to you, "to sinking the ship, notwithstanding it might have involved a conflict with our two war vessels then and there present."

I am not disposed to pay undue regard to these *ex post facto* threats, which are now reported to the Department. I prefer to think that by extravagance of language, uncontrolled by the actual presence of the problem which he was permitted to solve so much to his satisfaction, Señor Anguiano has done injustice to his own sense of humanity. To have sunk the *Acapulco*, with her freight of innocent lives, in the execution of a purpose for the accomplishment of which nothing but unlawful and invalid excuses have so far been advanced, would have been an act of warfare, and of savage warfare. Even where towns are bombarded in time of war an opportunity is given to the peaceful inhabitants to escape. Less consideration should hardly be shown to those upon the sea. And I am instructed by the President to say that he earnestly trusts the time will never come when the course of events in Guatemala, or the declared purposes of her rulers, will constrain this Government to insure the safety of its merchant vessels entering the waters of Guatemala by stationing naval vessels along the coast and opposite the ports of that country.

The declarations which you report can not, however, fail to deepen the regret here felt that you should have permitted yourself to furnish the warrant and excuse for arbitrary and violent proceedings, without even the semblance of legal forms and authority, on the deck of an American vessel, which thereby became the scene of confusion, of danger, and of assassination. You had been informed by Captain Pitts that General Barrundia would probably resist arrest. You were also apprehensive of the desperate inclinations of those who sought to compass his capture as an "enemy." If he had been willing to surrender himself without resistance, there was good reason to believe that the violence of a mob on shore would relieve the authorities of Guatemala of the duty of preserving their engagement to spare his life. In every respect the time was one of great disorder, when the ordinary law was suspended and life and liberty were at the mercy of the rulers and of an excited populace. If, instead of accepting that lawless and turbulent condition as the ground of your advice and consent to the surrender of General Barrundia, you had made it the basis of a suggestion to Commander Reiter to offer him hospitality on board of the *Ranger*, within or without the waters of Guatemala, and with or without the consent of her Government, your action would have had the sanction of humane and recognized precedents. In 1849 the British admiralty

consulted the foreign office touching the disorders then prevailing at Naples. On the 4th of August in that year Mr. Addington, the under-secretary of state, replied as follows:

Viscount Palmerston directs me to request that you will acquaint the board of admiralty that his lordship is of opinion that it would not be right to receive and harbor on board of a British ship of war any person flying from justice on a criminal charge or who was escaping from the sentence of a court of law. But a British man-of-war has always and everywhere been considered a safe place of refuge for persons of whatever country or party who have sought shelter under the British flag from persecution on account of their political conduct or opinions; and this protection has been equally afforded, whether the refugee was escaping from the arbitrary acts of a monarchical government or from the lawless violence of a revolutionary committee.

These views, which were accepted at the time, appear subsequently, during the disorders in Sicily in 1860, to have been regarded by Her Majesty's Government as containing sound doctrine. And still later, in 1862, during the revolution in Greece, Vice-Admiral Sir William Martin issued to the officers of Her Majesty's ships in the Piræus the following instructions:

It is to be understood that your duty at this port is to be limited to the protection of the lives and property of British subjects and to affording protection to any refugees whom you may be informed by Her Majesty's minister would be in danger of their lives without such protection.

The doctrines of this Government are not less humane and liberal, and on more than one occasion it has permitted its legations and ships of war to offer hospitality to political refugees. This it has done from motives of humanity. Its views would not have been less pronounced if, in addition to the humane aspect of the subject, it had also been confronted with the duty of preventing the decks of its merchant vessels from being made the theater of illegal violence, upon groundless and unlawful excuses, and without even the pretense of legal formality.

For your course, therefore, in intervening to permit the authorities of Guatemala to accomplish their desire to capture General Barrundia, I can discover no justification. You were promptly informed that your act was regretted. I am now directed by the President to inform you that it is disavowed. The President is, moreover, of opinion that your usefulness in Central America is at an end. You will therefore leave your post with all convenient dispatch, turning over your legation to Mr. Kimberly, as *chargé d'affaires ad interim*, through whom your letter of recall will subsequently be presented to the Guatemalan Government.

I am sir, your obedient servant,

JAMES G. BLAINE.

Mr. Blaine to Mr. Kimberly.

No. 225.]

DEPARTMENT OF STATE,
Washington, December 22, 1890.

SIR: I have delayed until now to answer Mr. Mizner's dispatch No. 159 of September 10 last relative to the return of the arms which were seized by the Guatemalan authorities from the Pacific Mail Steamship Company's steamship *Colima*, at San José de Guatemala, July 18, 1890. That company desired to present certain papers bearing upon this unfortunate occurrence, and hence the question has been held in abeyance.

It appears that the *Colima* sailed from San Francisco for Panama and intervening ports on July 3 last, carrying as part of her cargo

certain arms and ammunition consigned to the minister of war of the Republic of Salvador. The *Colima* arrived at San José de Guatemala July 17, and thereupon the commandant of the port threatened to seize the arms and ammunition. The reasons assigned therefor were not always, perhaps, consistently maintained in the various conferences which were held, but it sufficiently appears that the only real ground relied upon by the Guatemalan authorities was that the steamship was carrying the arms in violation of the terms of the company's contract with the Government of Guatemala. The same day Mr. Leverich, the company's agent, and the Guatemalan minister of foreign affairs, at a conference at which Mr. Mizner was present, agreed that the arms and ammunition should be transferred from the *Colima* to the *City of Sydney*, another steamship of the same company then about to sail northward, and that they should be stored in the company's hulk at Acapulco, Mexico. The arms and ammunition were transferred on the morning of the 18th from the *Colima* to a small boat in order to be taken on board the *City of Sydney*, as agreed, whereupon the Guatemalan authorities diverted the course of the boat to the shore and appropriated the arms and ammunition to their own use. In the meantime the authorities had threatened to do the *Colima* injury if the arms and ammunition were not delivered up, and there is reason to believe that a Krupp gun on shore was pointed at the ship to further menace her. The *Colima* proceeded on her voyage the evening of the 18th; and afterwards, in compliance with the repeated demands of Minister Mizner, the arms and ammunition were gathered together and returned, on August 31, to another ship of the company and were taken back to San Francisco.

The alleged basis for the action of the Guatemalan authorities was that the Pacific Mail Steamship Company, by the carriage of the arms, had violated its contract with the Government of Guatemala dated February 27, 1886, subsequently renewed June 17, 1889, the seventeenth article of which reads as follows:

The company binds itself not to permit troops or munitions of war to be carried on board its steamers from any of the ports of call to the ports of, or adjacent to, Guatemala, if there be reason to believe that these materials may be used against Guatemala or that war or pillage is intended.

Whether the act of the *Colima* was in violation of this article or not is for the present purpose unimportant. Even if it were, it is submitted that there is no warrant either in the contract or otherwise for the seizure of the articles carried. There was not a state of war existing, and the seizure can not be justified as contraband of war. The arms, to be sure, were not taken from the *Colima*; but the manner by which the agreement for their transfer was obtained, viz, by menace, and the manner in which it was broken and the arms taken from the small boat are necessarily connected and must be treated as constituting parts of one transaction. And, furthermore, an American ship and her passengers were menaced and threatened with destruction. Whether her owners had or had not violated some contract entered into with the local Government is no excuse whatever for the action of the Guatemalan authorities.

It appears from a memorandum of an interview between Mr. Mizner and the Guatemalan minister of foreign affairs (inclosure No. 2, Mr. Mizner's No. 159) that the latter admitted that his Government had been in the wrong and agreed to return the arms with certain formalities implying that admission, which agreement, however, was not kept. Mr. Mizner says:

It was fully understood that the arms should be put on the first mail steamer going north, which in this instance was the *San Blas*, the same commandant who took them from the *Colima* to go on board in uniform and officially deliver them to the captain of the *San Blas*, with invoices and explanations and such other formalities as might be usual and proper in such cases. All of this the commandant neglected to do. The arms were received on board of the *San Blas* on the 31st ultimo (August) unaccompanied by any officer or representative of the Government, or any invoice, explanation, or direction whatever.

The Honorable Secretary of the Navy has received a like report from Lieut. Commander George O. Reiter, commanding the U. S. S. *Ranger*, which was in the port of San José when the arms were returned in the above-described irregular manner.

Without going into details or further considering at this time the extent of the wrong committed, this Government considers that it is clearly entitled to some satisfactory apology or reparation from the Government of Guatemala for the indignity thus offered to an American ship. It would prefer, however, that some suggestion to that end should come from the latter Government itself.

You are directed to read this instruction to the minister of foreign affairs and to leave a copy with him if he so desires.

I am, sir, etc.,

JAMES G. BLAINE.

Mr. Mizner to Mr. Blaine.

No. 227.]

LEGATION OF THE UNITED STATES,

Guatemala, December 31, 1890. (Received January 16, 1891.)

SIR: I have the honor to acknowledge the receipt of your delayed dispatch No. 206 of the 18th of last month and to report that I have this day turned over the legation to Mr. Kimberly, as chargé d'affaires.

I am also in receipt of a copy of the President's annual message, delivered to the present session of Congress, in which my official services in the recent establishment of peace between these Republics is approved and I am complimented by title in the following words:

The peace of Central America has again been disturbed through a revolutionary change in Salvador which was not recognized by other states, and hostilities broke out between Salvador and Guatemala, threatening to involve all Central America in conflict and to undo the progress which had been made toward a union of their interests.

The efforts of this Government were promptly and zealously exerted to compose their differences, and through the active efforts of the representative of the United States [Mr. Mizner] provisional treaty of peace was signed August 26.

I am at a loss to know how in the next sentence my conduct of a mere incident of that war—the attempted arrest of a single person—should meet with the President's disapproval, when it is remembered that the incident occurred on the 27th of August, the very day when the first condition of the bases of peace, to wit, the retiring of the armies from the frontiers in 48 hours, was about to be carried out under my direction as dean of the diplomatic corps, necessitating my constant presence at the legation to compose any difficulties that might arise; and, as a matter of fact, several complaints were presented to me in writing by these governments charging bad faith, which were arranged to the satisfaction of all.

On the 25th of August the two hostile armies, estimated at 10,000 on a side, after several severe battles, confronted each other on the frontier, awaiting the efforts of the diplomatic corps to effect a basis.

of peace, which, as stated by the President, was consummated through the active efforts of the representative of the United States (Mr. Mizner) on the next day; so that on the 27th, 28th, and 29th of August the all-absorbing question was peace to over two millions of people, and the arrest of a citizen of Guatemala on one of our merchant ships, either in time of war or peace, was an inconsiderable matter compared with the vast interests involved, as no one could possibly foresee that the person to be arrested would resist, nor could it be supposed that the person was armed and would first fire upon his benefactor, the captain of the ship, or that any fatality whatever would occur.

A resolution of the Lower House of Congress having been passed in October last calling for the papers in the case, it is to be regretted that action was taken in the matter before that committee had an opportunity to report, as I am absolutely certain that a full investigation of the case before that committee, including my presence before it, if necessary, would have explained everything to its entire satisfaction.

It will ever be a consolation to me, compensating for the President's disapproval of the attempted arrest of a single person on one of our merchant vessels in local waters, whether in war or in peace, that I was largely instrumental in retiring two hostile armies to their quiet homes, thus saving thousands of human lives, averting untold disaster, and restoring harmony and good will to neighboring states. To the statement of the President that the attempted arrest was in violation of precedent, permit me to say, with all due respect, that I considered the law correctly laid down by your immediate predecessor, Mr. Bayard, when he said:

It is clear that Mr. Gomez voluntarily entered the jurisdiction of the country whose laws he had violated. Under the circumstances, it was plainly the duty of the captain of the *Honduras* to deliver him up to the local authorities upon their request.

Gomez was a citizen of, and a political offender against the laws of Nicaragua. No charge of other crimes being made against him, the captain of the steamer on which he entered the local waters had made no request upon anyone concerning him, yet Mr. Bayard said "it was plainly the duty of the captain to give him up to the local authorities."

Barrundia was a citizen and a political offender against the laws of Guatemala. Besides being indicted for common crimes, he voluntarily came into the jurisdiction of Guatemala on the merchant steamer *Acapulco*. The authorities sought to arrest him; the captain of the ship asked me to instruct him; I advised him as follows:

If your ship is within 1 league of the territory of Guatemala and you have on board General Barrundia, it becomes your duty, under the law of nations, to deliver him to the authorities of Guatemala upon their demand.

If there is any difference between the two cases, it is in favor of the right of Guatemala to have made the arrest on the ground of his being both a political and common-crimes offender, and sustains me in giving the advice, as it was earnestly sought by the master of the *Apaculco*; while in the Gomez case the captain of the *Honduras* was silent.

The details in both the Gomez and Barrundia cases were to have been left to the respective captains and local consuls, as it would be impossible for a minister, being hundreds of miles away, to give personal attention to such arrests.

In the President's first annual message to Congress it was said that "diplomacy should be frank and free from intrigue," thereby implying it had not been so in the past; if, as must be conceded, Guatemala had the undoubted right to arrest Barrundia, would it have been "frank" e

to have thrown any obstacles in the way of the exercise of that right? On the contrary, would it not have been "intrigue" to have abetted the captain of the *Acapulco* in evading elementary international law, as we exercise the right to arrest all kinds of offenders on foreign merchant ships when in our ports?

On the 4th of July last Captain Pitts permitted the authorities of Salvador to arrest Señor Delgado, the minister of foreign relations of that Republic, and take him against his will from the steamer *Acapulco*, as per affidavit sent you. It would seem that the same privilege should have been extended to Guatemala.

These republics have in the most emphatic manner, in banquets and written communications, thanked me for our good offices in making peace, in which the people, almost en masse, have joined.

The entire diplomatic corps in Central America, excepting the representatives from Mexico, have in writing indorsed my course in the Barundia case.

Believing that under all the circumstances I acted in strict accordance with the law of nations, and being absolutely certain of the rectitude of my own intentions, I submit my action and unprecedented treatment to the considerate judgment of my countrymen.

Trusting that this communication may have the same publicity and place in the permanent diplomatic records of the nation as that accorded to your dispatch,

I have, etc.,

LANSING B. MIZNER.

CHINA.

Mr. Denby to Mr. Blaine.

No. 988.]

LEGATION OF THE UNITED STATES,
Peking, October 31, 1889. (Received December 6.)

SIR: I have the honor to report that I have had very lengthy negotiations with the Tsung-li yamèn relating to the claim for injuries suffered by Louis McCaslin by the closing of a bridge of boats at Ningpo, April 29, 1888. The case was, unfortunately, not managed exactly according to my instructions to the consul at Ningpo. Upon the happening of the injury the consul took the evidence of the foreign witnesses and the native boatmen; the taotai took the evidence of the bridge-tenders. When the case came to me and was presented by me to the yamèn, they answered that, according to the proof furnished by the taotai, the bridge-tenders were not to blame in closing the bridge that notices had been stuck up that boats could not pass at the point in question; and that the bridge-tenders had not been guilty of negligence. I replied that, unfortunately, they did not have all the evidence before them; that the proof in my possession indicated either a willingness to inflict the injury or the grossest negligence. I suggested that, as the evidence in their possession and mine, respectively, was not identical, the best thing to do would be to direct the consul and the taotai to hear all the evidence as a joint commission, which the treaties provide for, and to report all the evidence to Peking. By this means the yamèn and I would have the same evidence before us, and we could then argue the case from the same standpoint.

The yamèn made an order to the taotai to open a joint commission and to hear all the evidence.

I immediately sent to Mr. Pettus positive and minute instructions to meet with the taotai in joint commission, and to make out the best case he could, and to see that all the evidence in the case was sent to the yamèn and to me. My instructions to Mr. Pettus, under date of April 3, 1889, contained this language:

They (the yamèn) insisted on the evidence the taotai sent forward. I insisted on that which you had sent to me. A joint investigation will secure the same evidence. After you have taken it, if the taotai still refuses satisfaction, you can appeal to the legation. Then the evidence will be undisputed and there will be common ground for the yamèn and the legation to meet on. You are therefore instructed to consent to a joint investigation and to make the best case you can.

Under date of June 1, 1889, attention was called to these instructions, and they were repeated. The taotai notified the consul of the time when the joint commission would meet. Mr. Pettus attended, but for some reason, not satisfactory to me, inquired whether he should bring the foreign witnesses to be examined before the joint commission. The taotai replied, in substance, that he could take his own course as to that matter. The taotai then proceeded to examine the native wit-

nesses, and Mr. Pettus, assuming that the taotai meant that the evidence already taken by him would be considered, failed to produce either the plaintiff, Mr. McCaslin, or any of his foreign witnesses, who were the most important he had. The taotai then rendered the same adverse decision that his predecessor had rendered.

Mr. Pettus then protested that the taotai had not considered the testimony of the foreign witnesses; but the taotai answered that no foreign witnesses were introduced before him, and that his duty was to consider the evidence heard before the joint commission. The taotai then reported to the yamén the same proof that they already had, and I was in the same difficulty from which I thought I had escaped, that is, no foreign evidence was before the yamén. I immediately represented to the yamén that, owing to the misconstruction of my instructions, and owing, partly, to a misconception of the true meaning of the taotai, the consul had failed to introduce the foreign witnesses before the joint commission, and the actual situation had not changed at all. I very earnestly asked that the case be reopened and remanded again, so that on a new hearing we might have all the evidence before us; but the yamén refused to grant any relief, stating that it was contrary to Chinese law; that the case had been twice heard, once before a joint commission, and was at an end, and proceeding further to argue that on the merits there was no cause of action. I also proceeded to argue the case on the merits. I strenuously strove also to show to them that such evident errors as had occurred should be remedied at any stage of the proceedings. But my efforts were in vain, and no remedy now remains to Mr. McCaslin in China. I reported all this to the consul and suggested to him that the only chance for recovery on the part of McCaslin was to represent the facts to the Department of State, with the view of recouping the amount claimed in any future application that might be made to the Government of the United States for damages claimed by the Chinese in the United States for injuries, should such case ever arise.

This legation has latterly been very much pressed with work, and I have not deemed it necessary to send you complete copies of all the correspondence with the yamén in this case, but will do so if you so direct.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

[Extract.]

No. 1005.]

LEGATION OF THE UNITED STATES,

Peking, November 19, 1889. (Received January 16, 1890.)

SIR: I have the honor to report that I have received from the members of the Presbyterian mission at Chi-nan-fu a communication, of which I inclose a copy.

This communication contains the gratifying intelligence that the local authorities have consented that the mission may take possession of a valuable tract of land within 3 li of Chi-nan-fu and have sealed their deeds.

The land is said to contain 7 English acres. I do not wish to magnify my services, but, in view of the peculiar circumstances surrounding this case and now confronting me, which will hereinafter appear, I

feel justified in claiming that this result of my efforts to secure land for my countrymen is a great and signal success. In view of the irritation existing in China on account of the late act of Congress, and of the deep-seated antagonism of the Chinese Government to the permanent residence of foreigners in the interior, and of the annoyance, trouble, and ill will that the Chi-nan-fu troubles have generated, I may fairly claim some credit for having brought to a happy close efforts to secure land which have been persistently and continuously kept up for two years. Yet it will be seen by the communication of the members of the mission that they are not satisfied; that they profess to regard the country tract of land as a different case from that of the lot originally contracted for; and that they demand my interposition now to secure the original lot, the same as if nothing had been accomplished. I have replied to them in a communication, of which I inclose a copy, and I have refused to demand possession of the lot originally contracted for on the ground that the acceptance of the country tract must be regarded as a waiver of the right to claim the original lot. It is known to the Department that the local authorities objected to sealing the deed to the lot originally contracted for, because it interfered with geomantic influences. This superstition confronts me everywhere in China, notably at Foo-Chow.

It was judicially decided some years ago by an English judge, in a case heard at Foo-Chow, that the missionaries, in efforts to secure land, must give proper influence and weight to an objection on geomantic grounds; whether diplomatic officers wish to or not, they are compelled to respect this superstition. The missionaries say that they will accept another lot in lieu of the lot contracted for. My answer is that this exchange has been practically effected by the granting to them of a tract of land which they themselves selected.

I submit the question to you on these two papers, the facts which appear in your archives, and the answer to my communication to the missionaries, which I will forward if they send one.

I have had in China infinite trouble and labor to regulate these questions and keep in the bounds of prudence. But I rejoice that the great body of the missionaries is composed of sensible men, who understand the difficulties that confront this legation and usually support its honest efforts to secure toleration, peace, and residence in the interior with marked kindness and indorsement.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1005.]

Mr. Reid to Mr. Denby.

CHI-NAN-FU, November 3, 1889.

SIR: Since I last reported to you under date of October 17 a decided change has occurred for the better in our affairs. Though the taotai failed to reply to my letter or appoint an interview (this being the second failure in this direction), the deputy called on Dr. Colman and informed him that the deed of his land was stamped. On the 27th the doctor, accompanied by Rev. Mr. Sexon, went by invitation to the magistrate's yamen and received the deed. The legal fee was paid the next day. The officials urged that no light building be erected, and comforting words were spoken to them. On the 29th the members of our mission had another conference and agreed on a letter to be addressed to you. I informed them that I would take it in person and present it to you. Any minor matters can better be considered in an informal conversation, but the main sentiment of my colleagues, as well as of myself, are carefully expressed in the following letter unitedly presented for your consideration.

"HONORABLE AND DEAR SIR: It is with pleasure that we can now report to you the settlement of the case of the land purchase by Dr. Coltman in the country west of the city. On the 27th of October the deed as stamped was presented to him by the magistrate. Though a delay of a year has been necessitated in the erection of buildings, we can not but rejoice at the conclusion as at last reached, and in bringing this about we fully recognize and appreciate the value of your assistance. We beg you to accept our united expression of gratitude and respect.

It is with regret, however, that we must at the same time state the failure of the officials to effect, or apparently to attempt to effect, a settlement of the original and remaining cases which have now concerned us for the space of 2 years. After repeated failures of our own efforts to bring about justice, we unreservedly sought the interposition of our legation in December, 1887, requesting that we be put in peaceable possession of the said property, or that a satisfactory exchange be made, and also that the ringleaders of the riot be punished and redress be given for injuries inflicted. While the matter of the riot has been shamefully ignored by the officials, the matter of the property has been referred to in an unsatisfactory way, the officials only promising to restore half of the original price, and so make either the original owner or the mission the loser of half. Certainly, on such a basis we desire no exchange and insist on the actual property. We have been grateful for your repeated dispatches to the Tsungli yamên, in which you have demanded that these points be satisfactorily and justly settled, and we are inclined to believe that by further action on your part in our behalf a creditable settlement will be reached, as has now been reached in the case of the property in the country. We see no reason why these points should diminish in importance merely because the officials have practiced such a full and wearisome degree of dilatoriness and unconcern. It should be remembered that Chi-nan-fu is a provincial capital, and, if justice fails to be given here under the very eyes of the governor, it is only an impetus to similar injustice in the surrounding districts. Other religions are permitted and protected in this city to the fullest degree, even the Roman Catholic having property in the city suburbs and surrounding country, and we see no reason or right why the method of restriction should be practiced on American citizens and Protestants. When an American is assaulted by a mob, it seems to us imperative that at least the ringleaders should be punished and proper redress be given. These points, however, have already been frequently and fully reported to you. Leaving it with you to decide as to the best way to gain success on these matters, and thanking you for the assistance already given and the patience and energy displayed,

"We remain, sir, yours, etc."

On October 30 I sent another letter to the taotai, mentioning his failure to give me any answer to the previous letter and stating that in the fourth moon, in your dispatch to the Tsungli yamên, you had clearly distinguished all the points, and therefore I requested his immediate and equitable management. To-day I sent him another letter, answering the argument of the local gentry against our purchase of the suburb property and stating the real force of the twelfth article of the treaty at this time.

On the 6th I am to send him one concerning the riot, this being the second anniversary of the occurrence. I will state again the names of the ringleaders and quote from the edicts. With these letters sent to him, I will then wait till I return from Peking with your added instructions and further aid.

I have, etc.,

GILBERT REID.

[Inclosure 2 in No. 1005.]

Mr. Denby to the members of the American Presbyterian mission at Chi-nan-fu.

Misc. No. 68.]

LEGATION OF THE UNITED STATES,
Peking, November 19, 1889.

GENTLEMEN: I have received at the hands of Rev. Gilbert Reid an unsigned "copy" of a communication addressed to me by you. I pass over the irregularity of sending to this legation a copy of an important paper without signature, and, on the assurances of Mr. Reid that the contents were approved by all of you, I treat it as if it were original and duly signed.

You say: "It is with pleasure that we can now report to you the settlement of the case of the land purchase by Dr. Coltman in the country west of the city. On the 27th of October the deed as stamped was presented to him by the magistrate. Though a delay of a year has been necessitated in the erection of buildings, we can not but rejoice at the conclusion at last reached." You then express your regret that no settlement has been made of the original case. You ask my assistance in the accomplishment of three things, to wit:

First. The assured possession of the property that was originally contracted for or, in lieu thereof, the granting of another house lot.

Second. The punishment of the ringleaders in the riots which occurred 2 years ago.

Third. Redress to Mr. Reid for injuries inflicted on him by the rioters.

I will take up these questions in the reverse order.

Redress to Mr. Reid.

You are no doubt aware that the Tsung-li yamén ordered a minute examination to be made of the circumstances which occurred at Chi-nan-fu, and in a communication to me of April 16, 1888, denied all official liability and wound up by saying "there can be no need of making it (the riot) the subject of an inquiry or further discussion." But this declaration need not prevent Mr. Reid from presenting his claim specifically. I have not hitherto presented his claims in minute particulars, though I have made a general demand for redress for him, because I hoped that some general and final settlement would be arrived at in Chi-nan-fu, wherein all the matters involved in this controversy would be peacefully and justly arranged. But, leaving out of Mr. Reid's claim for compensation some items to which I have verbally called his attention, and which are properly claims of the mission, and not of himself personally, I will now, if Mr. Reid so desires, present his claim, in substance as he has prepared it, to the Tsung-li, yamén.

The punishment of the ringleaders in the riot.

I have no objection to again calling the attention of the Tsung-li yamén to this subject, and demanding a further examination of the occurrence, and that the persons found guilty be punished.

Possession of the house lot originally contracted for or the granting of another lot in exchange.

The demand is made of me that I now insist that the mission shall have possession of the house lot originally contracted for or the granting of another lot in exchange. I invite your serious consideration of the question, whether, taking into consideration all the facts and circumstances of this case, I ought now to take up this matter anew, the same as if nothing whatever had been accomplished in the 2 years that have elapsed. It is known to you that the objection of the local authorities to sealing the deed to the original lot was based on alleged geomantic influences asserted by the gentry and others.

To meet this objection, you promptly offered to submit to an exchange of this lot for another. The authorities took a month to consider the question of exchange. In your first communication to me, which is not dated, but was received in December, 1887, and is signed by Gilbert Reid, Paul D. Bergen, and Robert Coltman, jr., you say: "The very last day the magistrate and two special deputies sent their cards, saying that the money would be returned to us and nothing more would be said about the property. This was the result of the month's opportunity to effect an exchange." In that communication you demand three things, the second whereof is: "That we obtain possession of the present property, or a satisfactory exchange."

In presenting this case to the yamén I followed your suggestions, that you would be content to receive another lot in exchange.

My first communication to the yamén contained this language:

"Third. That if it shall be held by Your Highness and Your Excellencies that it is more desirable to make an exchange of property and to give to the missionaries another tract in lieu of the one that they have bought, that a suitable and satisfactory tract of land be tendered to them. They desire, above all things, peace and harmony."

From that day to this, in every communication that I have sent to the yamén, and they have been numerous, I have always presented the case as being one in which locality was not material, the main object being that you should be insured peaceful possession of sufficient property to enable you to carry on satisfactorily your charitable and religious work. If I erred in this view of the case, you yourselves are to blame for the error. The action of Mr. Reid at the time that Dr. Coltman proposed to buy the country property seemed to me to be conclusive.

November 13, 1888, Mr. Reid sent to me a communication addressed to me as minister of the United States, wherein he says: "As the matters pertaining to our property difficulties have not, as yet, gained success, and other complications have unexpectedly arisen from counteraction of my mission, I have deemed it best to retire from the case, and accordingly my colleague, Robert Coltman, M. D., has been

appointed by the station to take my place in the general oversight; therefore, if you have any communication to transmit on the property case, please regard Dr. Coltman as the authorized agent."

The first communication of Dr. Coltman bearing on this subject was dated January 5, 1889. He says: "A new step having been taken by me in the purchase of property, I desire to inform you of the result." He goes on to state that, "believing it impossible to make an exchange of the property wherein Mr. Reid was mobbed for property in any of the suburbs," and for other reasons, he obtained permission from the Shan-Tung mission to purchase a site for residence and hospital within a limit of 3 lis from any suburb gate. He recites that he purchased such a site on the north side of the great road to Chi-Ho. Dr. Coltman then recites the difficulties and delays that he has encountered, and requests my assistance in having the deeds to the country property sealed. I therefore took up this new case and made urgent appeals to the yamen that the purchase should be ratified and peaceful possession of the new tract secured. I repeat, that if I erred in believing that the possession of this new tract was to be in lieu of the original demand, you yourselves are responsible for the misconception.

Mr. Reid himself took exactly the same view. He objected to the action of the mission because it was an abandonment of the original claim; and when Dr. Coltman secured the authority of the Chefoo conference to purchase land within 3 lis of the suburb gate, Mr. Reid resigned his position as manager of the affair and directed me to correspond with Dr. Coltman. The impression made upon my mind by the whole correspondence that I had with the mission was that the important thing to do was to secure sufficient and suitable property for the mission, and that whether such property was in the city or in one suburb or another, or in the open country, was entirely immaterial. In view of the quotations that I have made, particularly from the letter of Dr. Coltman, wherein he states the impossibility of securing the original lot and his consequent determination to buy other property, how could I arrive at any other conclusion?

The yamen has unquestionably ordered the local authorities to ratify the new purchase in the belief that the ratification was a settlement of the whole land case. After 2 years' strenuous endeavor the result has been reached that your mission is in peaceable possession of 7 English acres of valuable land within 3 lis of Chi-nan-fu. Yet we are now told that nothing whatever has been accomplished, and that we are confronted by the same condition of things which existed 2 years ago.

After having represented to the Chinese Government for 2 years continuously that all that my countrymen wanted was a site on which they might satisfactorily prosecute their charitable and religious work, and after having secured a site which they selected, I can not, consistently with fair dealing, now claim they are entitled to and must have the original tract over which the trouble originally arose. The acceptance of the country tract must, in my opinion, be taken as a waiver of the right to claim the original lot.

If the mission absolutely requires other property in the city or the suburbs, the acquisition thereof must be treated as a new question.

Since the above communication was written Rev. Gilbert Reid, without, however, having seen it or having any knowledge of its contents, has demanded of me that his personal claim be presented to the Government of China, and I have replied to him that it will be presented as soon as it can be translated.

I am, etc.,

CHARLES DENBY.

Mr. Blaine to Mr. Denby.

No. 476.]

DEPARTMENT OF STATE,
Washington, December 12, 1889.

SIR: I have received your No. 988 of the 31st October regarding your representation at the foreign office of the claim for injuries suffered by Louis McCaslin by the closing of a bridge of boats at Ningpo, April 29, 1888.

The Department would be glad to be furnished at your convenience with a copy of the correspondence on this subject with the yamen. The consul at Ningpo, Mr. Pettus, will be instructed to make a report of his proceedings to the Department.

I am, etc.,

JAMES G. BLAINE.

Mr. Denby to Mr. Blaine.

No. 1018.]

LEGATION OF THE UNITED STATES,
Peking, December 30, 1889. (Received February 18, 1890.)

SIR: I have the honor to inform you that I have received from Consul Crowell, at Amoy, a dispatch relating to the issuing by him of a travel certificate to one Chun Arfat, a Chinaman who claims to be a naturalized citizen of the United States. In this case the taotai indorsed on the certificate these words: "Chun Arfat, whose native country is Tong An district, was born in a foreign country and has changed his style of dress. His passport being issued to him, he can only have protection in traveling, but is not allowed in the inland to purchase real estate, build house, establish firm, transit goods, or evade duty. Should he transgress, he would be arrested and investigated." Mr. Crowell objected to this interpellation and reported the whole matter to me. I have sent to Mr. Crowell a communication of which a copy is herewith inclosed.

As Chun Arfat has never applied to this legation for a passport, I find no difficulty in holding that he is not entitled to a travel certificate. But I bring the matter to your attention for reasons that will hereinafter appear.

I call attention to dispatch No. 379 of January 19, 1885, Mr. Frelinghuysen to Mr. Young, on the subject of travel certificates. The Honorable Secretary, in my opinion, correctly states the rules that should govern the issue of travel certificates. He directs that such certificates should be limited to a particular journey and time, and should thenceforth have no validity. But Mr. Smithers, in dispatch No. 22 of May 15, 1885, he then being in charge of this legation, recommended that such certificates be issued for a year. Mr. Bayard, in his dispatch No. 448 of July 15, 1885, to Mr. Smithers, approves of this recommendation, with the suggestion that the matter be called to my attention that I might "report whether it (the system) proves entirely satisfactory or needs changing in any particular." By virtue of these instructions, a circular and blank forms for travel certificates were sent to the consuls September 26, 1885. Until the matter of Chun Arfat came before me, I have had no occasion to examine into the subject. Under our passport system I doubt the propriety of allowing the consuls to issue travel certificates to run 1 year. I think they should be confined to particular trips. It will sometimes, of course, happen that a traveler desires to make a journey into the interior and, without great inconvenience, can not wait until his application for a passport has been sent to this legation and the passport has been issued, sealed by the yamén, and returned to him. In such cases travel certificates are proper. Different questions might arise when the travel certificate was demanded by a merchant resident in China who desired its protection to enable him to do business in the interior, more especially if such merchant were a Chinaman, either native to China or to one of the British or other foreign possessions. I advise no distinction whatever between native and naturalized citizens, but I recommend that hereafter travel certificates be issued for the proposed trip, and not for a year. There would generally be no hardship in requiring an American merchant residing in China to take out a passport before making a trip into the interior. Difficulty and bad feeling existing locally would then be avoided. The local authorities would ordinarily have no cognizance of the matter at all,

and the holder of the passport would look to the Imperial Government for his protection. In all respects, except as to the term of 1 year, during which travel certificates run, the existing rules are good. The inclosed copy of my dispatch to Mr. Crowell will sufficiently indicate what my action will be when the case of Chun Arfat comes properly before me.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1018.]

Mr. Denby to Mr. Crowell.

No. 93.]

LEGATION OF THE UNITED STATES,

Peking, December 29, 1889.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 116 of the 22d ultimo, relating to the travel certificate issued by you to Chun Arfat and the restrictive conditions indorsed thereon by the taotai.

Consuls can not issue passports: but they may, under section 138 of the Consular Regulations of 1888, issue travel certificates in those countries where the deposit of a passport, during the temporary sojourn of a traveler, is required by local law. That section concludes with this language: "Certificates in the nature of passports, and to be used as such, are wholly unauthorized." In China this legation and the consuls are controlled on this subject by special instructions issued by the Secretary of State January 19, 1885, afterwards confirmed by Secretary Bayard, and communicated to the consuls by a circular from this legation September 26, 1885. A form of travel certificate in Chinese and English accompanied this circular.

The language of Secretary Frelinghuysen is this: "The true solution would seem to be to provide for the issuance by the consuls of limited certificates, but only on a presentation of a passport previously issued by the legation, or upon filing a duly attested application for a passport, with evidence of citizenship, accompanied by the legal fee."

As passports of travelers are not retained by the local authorities in China, it would seem that the only case in which the consuls have authority to issue a travel certificate is when a native or naturalized citizen applies for a passport, executes all the necessary papers, and represents that there is some necessity for the issuing of a travel certificate before the passport can be issued.

Mr. Frelinghuysen instructed this legation that such certificate should be temporary and local, and should be limited to the particular journey to be undertaken and to a particular time, and after the journey was accomplished, or the time had expired, they should have no validity. But Mr. Bayard, on the representation of Mr. Smithers, then in charge of the legation, consented that such certificates should run during 1 year, subject to any modification that might thereafter be suggested by me.

I should agree with you on a proper case made that the taotais have no authority, except in rare cases such as you have cited, to attach special and restrictive conditions to a travel certificate.

Such certificates derive their validity from the joint issuance by the consul, and the local Chinese authority, but the initiation in issuing them belongs to the consul, and the Chinese can not refuse to countersign them.

From what has been said it may readily be concluded that I would willingly bring this subject to the attention of the Tsung-li yamen and demand proper instructions to the taotai at Amoy if your statement of the case showed that Chun Arfat was in a position to demand a travel certificate. No passport has ever been issued to this gentleman, and he has never made any application for one. Until he makes proper application for a passport, I can not take up the question, because, under the rules cited above, you have no authority to issue a travel certificate to him. The certificate issued should be canceled.

If Chun Arfat makes application to this legation for a passport, and if it be necessary for him to make a trip into the interior before the passport can reach him, and the taotai persists in the alleged right to introduce conditions into his act of countersigning, let the facts be reported to me, and I will take immediate action.

In my opinion, it would be wise for Chun Arfat not to go into the interior until he has received a passport or a travel certificate properly countersigned.

Your travel certificate not sealed by the local authorities constitutes no protection, and Chun Arfat had better delay his trip until the matter is arranged.

I am, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1032.]

LEGATION OF THE UNITED STATES,
Peking, January 14, 1890. (Received March 17.)

SIR: I have the honor to inclose herewith copies of my correspondence with the yamén touching the case of Rev. Gilbert Reid, to wit: A copy of my communication of November 23, a copy of the communication of the yamén to me of December 1, and a copy of their communication to me of January 10, 1890.

In presenting the claim of Mr. Reid, I explained to the yamén that I did not present it sooner, because I hoped that between the missionaries and the local authorities a just and peaceful settlement could be arrived at without the necessity of bringing the matter to the attention of the prince and Their Excellencies. I then presented a statement of the facts as prepared by Mr. Reid and as nearly as possible in his own language. In this connection I refer to my dispatch No. 529 of December 20, 1887 (Foreign Relations, 1888, folio 238), and to my dispatch No. 621 of April 13, 1888 (Foreign Relations, 1888, folios 292, 293, 294, and 295). Many other communications on this subject passed between the yamén and the legation, but they were not deemed of sufficient importance to send copies, being usually, on my side, requests for prompt action and on the side of the yamén promises that the land matter should be arranged.

In my dispatch No. 1005 of November 19 I informed you that the discussion had resulted in the acquisition by the missionaries of 7 acres of valuable land close to the city, and that the missionaries, nevertheless, insisted on being put in possession of the original small city lot which they claimed to have bought. In the dispatch of the yamén to me of December 1 it simply repeats its statements to be found in its communication at folio 294, Foreign Relations, 1888. It reiterates that Rev. Gilbert Reid forced his way into the inner courtyard of the house in question, and the women and girls pushed him and he fell. It states that it will again communicate with the authorities in Shan-Tung and will report to me their statement.

The dispatch of the yamén to me of January 10, 1890 (the third inclosure herein), sets forth the report of the authorities at Chi-nan-fu containing the following statements in substance: That the money paid by the missionaries for the town lot is in the treasury, subject to their disposal, and awaiting the return of the deeds which were received by Mr. Reid, when the whole matter will be terminated. It shows that the land selected by Dr. Coltman has been deeded to him and the deeds sealed. They ask that I instruct Mr. Reid to surrender the deed to the city property and take back his money, so that the matter may be settled and peace and quiet may prevail.

On this report the yamén remarked: "The local authorities have already assisted them (the missionaries) in the matter, and thus the missionaries have accomplished their purpose of carrying on their charitable work. In the matter of all the former pieces of property leased, these should, as a matter of course, be considered as ended, and thus clear up all the accumulated papers in regard to them." I substantially take the same view of the land transaction. But in this last communication the claim of Mr. Reid for damages is not distinctly disposed of.

I shall demand a positive answer.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1032.]

Mr. Denby to the Tsung-li-yamen.

No. 27.]

LEGATION OF THE UNITED STATES,
Peking, November 25, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES: It is known to Your Highness and Your Excellencies that on the 21st day of December, 1887, I presented to Your Highness and Your Excellencies a statement setting forth the difficulties under which my countrymen were laboring at Chi-nan-fu and asking your kind interposition in their behalf.

In that communication I set forth four things to which I particularly called your attention. I did not then specify the personal claim of the Rev. Gilbert Reid for damages received at the hands of a mob in Chi-nan-fu, because I hoped that between the missionaries and the local authorities a just and peaceful settlement could be arrived at without troubling Your Highness and Your Excellencies on the subject.

Mr. Reid has been persistent, since he received the injuries he complains of, in his applications for redress to the governor, taotai, and magistrate; but his claim has not been entertained, and, as he sets forth, no redress of any kind has been afforded him. He has therefore presented to me a lengthy petition that I would bring to the attention of Your Highness and Your Excellencies and ask that damages be paid to him for the wrongs and injuries so sustained.

From the statement furnished by Mr. Reid, I have prepared the recital of the circumstances as he has written it, and I have the honor to transmit it for the consideration of Your Highness and Your Excellencies.

I avail, etc.,

CHARLES DENBY.

[An inclosure in No. 27 to yamen.]

Statement of Rev. Gilbert Reid, of the Presbyterian mission.

He asserts that he is a citizen of the United States, that he is now domiciled at Chi-nan-fu and was domiciled there at the happening of the events of which he complains, and that he is and was engaged in missionary work.

On the 31st of August, 1887, the Presbyterian mission took a perpetual lease of a certain piece of property in the southeast suburb of the city.

Other associations have from time to time secured property in Chi-nan-fu, and it was understood that there was no objection made by the local authorities.

On the 1st of September, 1887, the district magistrate was ordered by the taotai to seal the deeds if, on examination, no clandestine illegality should be discovered.

The landlord, the go-between, and Mr. Reid were successively examined, and no illegality was discovered. The magistrate and a coacting deputy at different times ordered that the property should be recognized as belonging to the mission.

After a delay of 2 months certain gentry of the city interfered and objected to the transfer of the property. Opportunity was given them, for the sake of peace, to make a satisfactory exchange in 1 month's time, and, if none were made, the mission insisted on possession.

A petition was sent to the taotai to that effect.

A period of 3 months was allowed as a notice to give up the property, which is in accordance with Chinese custom. The money still due the original landlord was turned over to his account.

November 28 another petition was sent to the taotai, stating that Mr. Reid intended that evening to go and occupy the property, and requesting him to order the local magistrate to make protection and assistance. About dusk, according to previous arrangement, he went to and quietly entered the house to occupy one room. He exhorted the different tenants to occupy for the present their respective quarters and have no fear or anxiety.

In a short time a rabble began to gather, and certain ringleaders, unconnected with the property, having entered the house, forcibly ejected him therefrom.

He entered the house again, followed by a large crowd. Some picked up clubs, some brickbats, and the rest, with yells and hoots, again ejected him. Outside the house he was forcibly thrown to the ground, and his head received a contusion over the left temple either from being struck by a stone or a fist. He got up and was again hurled to the ground, stones flying around him and some taking effect. He became exhausted and half unconscious and lay on the ground.

He had other injuries, scratches on the body and pain in the back, which lasted more than a month.

After an hour's uproar the constable helped him to go away.

One of his colleagues, Rev. P. D. Bergen, went, as soon as he heard of the occurrence, to the taotai's yamén, but an interview was refused. He then went to the magistrate's yamén with the same result. The next day he sent a petition to the taotai, citing the names of the ringleaders, but from that day to this they have not been arrested or tried.

The officials delayed for 3 days to go to see and examine him, and then asserted to him that there had been no riot and that he was not injured.

Mr. Reid has hoped until now that the local authorities would do him justice. He has repeatedly demanded justice and redress of the governor and the taotai, but without effect. He now deems it his duty to bring the matter to the attention of Your Highness and Your Excellencies and through your interposition to endeavor to secure redress.

He charges that something ought to be done in the case, because the happening of such outrages creates precedents for others and makes life insecure. He therefore presents for your kind consideration the following demands:

First. That for being violently expelled from the property of which he claimed the legal possession he be paid the sum of 500 taels.

Second. That for a public assault and insult a compensation be made of 1,000 taels.

[Inclosure 2 in No. 1032.—Translation.]

The Tsung-li-yamén to Mr. Denby.

No. 31.]

PEKING, December 1, 1889.

YOUR EXCELLENCY: On the 23d of November last the prince and ministers had the honor to receive a communication from Your Excellency to the effect that on the 21st of December, 1887, you presented a statement setting forth the difficulties under which your countrymen were laboring at Chi-nan-fu and asking interposition in their behalf; that in that communication you set forth four things to which you particularly called attention, but you did not specify the personal claim of the Rev. Gilbert Reid for damages received; that he (Gilbert Reid) has therefore presented a petition requesting that you bring it to the attention of the prince and ministers for consideration, etc.

In regard to this case, on the 6th of April, 1888, the yamén sent a reply presenting a report from the governor of Shan-Tung stating that the Rev. Gilbert Reid in the night forced his way into the inner courtyard of Lin Mêng Kwei, and the women and girls pushed him and he fell; that he was not assaulted, and that the money had already been recovered and received by the missionaries, etc. The case of the said missionary leasing this house has for a long time been settled. As Your Excellency, however, repeatedly requested the prince and ministers to interest the local authorities of said province to assist the missionaries in acquiring other property, the yamén frequently addressed the Shan-Tung authorities to devise a plan of rendering assistance to them. But in the buying and selling of house property it is necessary that the people as a whole should give their consent. The local authorities would find it difficult to force or compel action in the premises. If at one time matters can not be brought about or successfully arranged, then the only thing to do is to be forbearing and wait another time and not be hasty. The said missionary having failed to accomplish the leasing of the house property in question, now drags in and sets forth the former affair and demands indemnity in the way of money. This the yamén certainly regards as an unbecoming act.

Your Excellency, in the management of affairs, is just and equitable, and the yamén thinks that you have probably not regarded the claim as it should be, for the reason that hitherto you have never brought it up. Now, having received Your Excellency's communication as above, the yamén, besides having addressed the governor of Shan-Tung again on the subject, to in turn instruct the local authorities to satisfactorily cause the action to be taken in the matter, and on receipt of a report the contents will be communicated to you. As in duty bound they send this reply for Your Excellency's information.

A necessary communication, etc.

[Inclosure 3 in No. 1032.—Translation.]

The Tsung-li-yamen to Mr. Denby.

Informal.]

PEKING, January 10, 1890.

YOUR EXCELLENCY: In the matter of the case of the purchase of land and erection of buildings at Chi-nan-fu by the Rev. Gilbert Reid, on the 23d of November last Your Excellency again addressed the yamen, wherein you requested that we would give it our consideration and attention.

On receipt of Your Excellency's communication, the yamen strenuously urged the authorities of Shan-Tung to speedily effect a settlement of the matter. A report has now been received from Chi-nan-fu as follows:

"In the case of the leasing of house property through misapprehension or mistake by the Rev. Gilbert Reid from Lin Meng Kwei, a long time since instructions were issued to the magistrate, who clearly investigated the matter and brought it to a close. The money paid (by the missionaries) was also recovered and deposited in the treasury of the magistrate awaiting the handing over by the Rev. Gilbert Reid of the deeds that were issued to him, when the money will be returned, and thus bring the matter to a termination. As to the property leased by Man Lu Tao (Dr. Coltman), situated within the jurisdiction of the Li Cheng district, on account of Chao Ping Cheng employing an anonymous name and buying it in an underhanded way, the gentry and people of the place came forward and again lodged a complaint against the transaction.

"Now, instructions were issued to the magistrate to use many means to explain and show them the right way to pursue, and the land was decided to be the property of Dr. Coltman. The missionaries have therefore been placed in possession of land which can be used in the carrying on of their good work, and, as a matter of course, they should give way to the wishes of the people in the matter of the house property rented outside of the city, to the end that peace and quietness may reign among the missionaries and the populace. If the matter is to drag on for a long time in a leisurely and dilatory manner, the deeds not returned to the magistrates and the money also not received, the end will be that no settlement will be effected. It is right to request that a reply be sent to His Excellency Mr. Denby asking him to instruct Mr. Reid without delay to send the deeds to the magistrate for cancellation and to receive the money originally paid, and thus bring the case to a termination. This will prove advantageous to both the people of the place and the missionaries."

Now, it appears to the yamen that Dr. Coltman and the other missionaries in leasing houses and purchasing land is for the object of establishing a hospital. The local authorities have already assisted them in the matter, and thus the missionaries have accomplished their purpose of carrying on their charitable work. In the matter of all the former pieces of property leased, these should, as a matter of course, be considered as ended, and thus clear up all the accumulated papers in regard to them.

As in duty bound, we send this note to Your Excellency, with the request that you will in turn instruct the Rev. Gilbert Reid to act accordingly.

Cards with compliments.

Mr. Denby to Mr. Blaine.

No. 1037.]

LEGATION OF THE UNITED STATES,
Peking, January 26, 1890. (Received November 4.)

SIR: I have the honor to inclose herewith a copy of my communication to the yamen of the 14th instant, a translation of the yamen's reply of the 18th instant, and a copy of my communication to the yamen of the 24th instant, all relating to the claim of the Rev. Gilbert Reid for damages. It will be seen that I deny the statement that Mr. Reid was not assaulted and so injured. There is considerable force in the allegations of the yamen that a payment of damages might lead to riot and disturbance.

Damages, if paid at all, would, of course, be paid by the local authorities and ultimately by the people. Such action would lead to ill feeling, which would embarrass the missionaries in their work, and the evil results would not be compensated for by the small amount of money that in any event would be received by the Rev. Gilbert Reid. I have

frequently expressed, in my dispatches, the opinion that Mr. Reid, having been officially notified that the deed to the lot in question would not be sealed by the authorities and the trade was off, was a trespasser in forcibly going upon the lot to take possession thereof, and does not occupy a position that the law would view favorably. It can not, in general, be expected that any government will pay damages to a person who is injured while he is doing an act that he has been forbidden to do. Besides, such a claim for money compensation on the part of a missionary tends to give the Chinese an erroneous idea of his sacred calling. In my last communication to the yamén I have endeavored to procure an order that the local authorities shall at least make some sort of an apology. The Department will recognize, without any extended comment from me, the difficulty of the minister here, in view of the new crusade that has overtaken China, to hold the balance even between the alleged rights of our missionary citizens and the Chinese. The whole question requires in the treatment conciliation, prudence, and sometimes firmness. In view of the extensive correspondence that has reached you on this subject, and the whole case being before you, I solicit some instructions as to how it shall be treated by me.

I have, etc.

CHARLES DENBY.

[Inclosure 1 in No. 1037.]

Mr. Denby to the Tsung-li-yamén.

LEGATION OF THE UNITED STATES,
Peking, January 14, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have had the honor to receive Your Highness's and Your Excellencies' communications of the 1st of December, 1889, and 10th of January, 1890, having relation to the Chi-nan-fu property case, the contents of which I have duly perused. In your last communication, Your Highness and Your Excellencies made no reference to the claim presented by the Rev. Gilbert Reid, which I laid before you in my communication of the 23d of November last. I will thank Your Highness and Your Excellencies to be good enough to give me a definite answer as to whether it will be favorably entertained or not, so that I may be in a position to inform Mr. Reid. As to the original land question, I may say that I have already addressed my Government in reference to it, setting forth the circumstances. I beg to extend my thanks for the assistance that has been rendered by the local authorities at Chi-nan-fu in the matter of the land leased by Dr. Coltman.

I have, etc.,

CHARLES DENBY.

[Inclosure 2 in No. 1037.—Translation.]

The Tsung-li-yamén to Mr. Denby.

PEKING, January 18, 1890.

YOUR EXCELLENCY: Upon the 14th instant we had the honor to receive a note from Your Excellency, wherein you stated that in reference to the claim presented by the Rev. Gilbert Reid, which Your Excellency laid before us in your communication of the 23d of November last, you would thank us to give you a definite answer as to whether it would be favorably considered or not, so that you may be in a position to inform Mr. Reid, etc.

In reply, we would observe that it appears that the Rev. Gilbert Reid in the night forced his way in the courtyard of Lin Mêng Kwei, which in the beginning was not right and proper. At the time the women and the girls pushed him and he fell, but he was not assaulted. Furthermore, his first wish or desire was that he only wanted the local authorities to assist him in hunting for another house or property. After-

wards, on account of our having found a house, he thereupon wishes, or has the intention, to claim indemnity for injuries, and he does not evade borrowing or assuming a cause or reason for his false and trumped-up claim, which is an unbecoming act. Now, the matter of leasing houses and land has already been satisfactorily arranged, and, if the question of indemnity is again brought up, there is certainly fear that if the people hear of it they may not be quiet, and the land now settled may be taken up and lead to other complications. Besides, Mr. Reid, in carrying on his evangelical work there, will also find it difficult to command the respect of the people. We therefore hope that Your Excellency will clearly show to Mr. Reid the right way to pursue and that he must not again bring up a nonadvantageous request. Cards with compliments.

[Inclosure 3 in No. 1037.]

Mr. Denby to the Trung-ti-yamen.

LEGATION OF THE UNITED STATES,
Peking, January 24, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES: Upon the 18th instant I had the honor to receive from Your Highness and Your Excellencies a note in reply to my note of the 14th instant relating to the case of Rev. Gilbert Reid. You state that "at the time the women and the girls pushed him and he fell, but he was not assaulted." I am not willing to allow this statement to pass without my protest and contradiction. From all the evidence before me, I am sure that there was a mob, composed of persons in the neighborhood, who had nothing to do with the house or its occupants. I am satisfied that Mr. Reid was injured by the mob by being stricken by some missile and by being thrown down on the ground. There are some other observations in the communication of Your Highness and Your Excellencies which are worthy of serious attention. I will refer them to my Government for its instructions. In this case, it seems to me that, in any event, some reparation should be made to Mr. Reid in the way of expression of regret by the local authorities for the insult and injury that he has suffered and by a proclamation to the people announcing that such rude and violent conduct as the mob was guilty of is disapproved, and the people should be warned against making any further attacks or insults against the missionaries. Being desirous, above all things, that peace and harmony should prevail between my fellow-citizens and the people by whom they are surrounded, I hope that Your Highness and Your Excellencies will see your way to comply with these suggestions.

I have, etc.,

CHARLES DENBY.

Mr. Blaine to Mr. Denby.

No. 495.]

DEPARTMENT OF STATE,
Washington, January 31, 1890.

SIR: I have to acknowledge the receipt of your No. 1005 of November 19 last, in relation to the obtainment of land for the American Presbyterian mission near Chi-nan-fu. It appears that, owing to superstitious objections on the part of the people to the occupancy by the mission of the land first contracted for 2 years ago, another lot was secured and is now occupied for the purpose of the mission.

This result was effected by representations to the Chinese authorities that the new piece of land would be taken in lieu of that originally sought, and the lot now held and occupied appears to have been granted upon that clear assurance. The members of the mission, in their correspondence with you, now refer to the original transaction as being in suspense, and, while retaining the land subsequently secured, solicit your immediate intervention to require the Chinese Government also to assure to them possession of the lot formerly desired.

The correspondence which you transmit plainly discloses that the legation, and, through it, the Chinese Government, were led to under-

stand that, in view of the popular feeling against the occupancy for mission purposes of the land originally contracted for, another lot would be accepted in order to end the difficulty and avoid future trouble with the populace, which had been indulging in riotous demonstrations and in attacks upon the members and property of the mission. This feature of the case seems to have been lost sight of in the recent communication to the legation from Chi-nan-fu, and it is not supposed that the members of the mission, after having had the circumstances of the transaction recalled to their attention, will be disposed to insist upon a grant of the original lot.

In this relation it is pertinent to observe that article 17 of the treaty with China of 1844, in guarantying to citizens of the United States "residing or sojourning at any of the ports open to foreign commerce" the right to obtain houses and places of business, to hire sites from the inhabitants on which "to construct houses and places of business, and also hospitals, churches, and cemeteries," says: "The local authorities of the two Governments shall select in concert the sites for the foregoing objects, having due regard to the feelings of the people in the location thereof." Article 12 of the treaty between the United States and China of 1858, referring to the same subject, provided that "the citizens of the United States shall not unreasonably insist on particular spots, but each party shall conduct with justice and moderation." It is not going far to say that where citizens of the United States are granted rights of residence outside of the places in which the treaties guaranty it, they are bound to the observance of the same general rules of conduct as at the open ports, just as this Government has insisted that the Government of China is in the same way bound to protect American citizens wherever, in the abatement of the restrictions formerly maintained, they are permitted to take up their residence.

It is desirable for all concerned that in seeking establishments in the interior a spirit of patience and moderation should prevail. Our experience with the Chinese in this country has shown us how unfortunate may be the results of provoking local antagonisms, and the experience of foreigners in China, where their presence has not infrequently excited riotous opposition, amply enforces the wisdom of not seeking too suddenly to overcome obstacles created by popular feeling.

I am, etc.,

JAMES G. BLAINE.

Mr. Denby to Mr. Blaine.

No. 1045.]

LEGATION OF THE UNITED STATES,
Peking, February 4, 1890. (Received April 1.)

SIR: On the 19th day of November, in dispatch 1005, I had the honor to send you a copy of a communication of the members of the Presbyterian mission at Chi-nan-fu to me and a copy of my reply thereto.

I have now the honor to inclose a copy of another communication to me from the members of the said mission.

I do not desire to present any further argument in support of my view that the granting and the sealing of the deeds to the country property should be taken as a settlement of the original land case. That the *yamên* so looks at the matter appears from their communications to me, inclosed in my dispatches to you, No. 1032 of January 14, and 1037 of January 26, 1890.

I am not, however, precluded by anything I have written to the yamèn from still demanding that the original purchase shall be ratified. But I adhere to my opinion that such a demand would be unwise, would not be favorably entertained, and in the end would prove injurious to the interests of the missionaries at Chi-nan-fu, and its enforcement might lead to riot and disturbance; while, on the other hand, if the deed is surrendered by the missionaries and the money paid recovered back by them, there is nothing to prevent them, on a proper showing of the necessity of their having another lot in the city or the suburbs, from commencing an effort to secure such lot as a movement entirely independent of the contract for the original lot.

It will be seen that the missionaries try to convict me of inconsistency. That issue I regard as immaterial. The question is whether, after the acquisition of the country tract, I should peremptorily demand of the Chinese Government the possession of the original lot or the purchase and tender to the mission by the local authorities of another lot. On the policy of this procedure the missionaries are silent.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1045.]

The missionaries to Mr. Denby.

CHI-NAN-FU, CHINA, January 10, 1890.

SIR: We, the undersigned, members of the American Presbyterian mission at Chi-nan-fu, beg to acknowledge the receipt of your communication of November 19, 1889. It is only within the last few days that we, as a body, have been able to meet together and consider the various points to which you request our attention and reply.

Concerning the failure to sign our names to the letter sent you by us, and to which you refer as an irregularity, we would say in extenuation (as we understand Mr. Reid has already explained) that certain members of the mission were necessarily called away before the document could be copied, and we had hoped that the statement of our representative, that the letter had been seen and agreed to by us, would be considered satisfactory.

We exceedingly regret that our position in this important matter has apparently not hitherto been made clear, and we gladly avail ourselves of this opportunity to reply and thus review once more the facts, as we apprehend them, contained under the three points presented in your letter.

Redress to Mr. Reid.

It is a matter of great surprise to us that we now learn that the formal and personal claim of Mr. Reid, made out under date of April 17, 1888, had not been formally presented to the Chinese Government. We had already used every effort to secure a peaceful settlement, but after repeated failure he was led to write to you, "I dare not delay any longer in the presentation of this memorial." After its presentation to the United States legation, however, there occurred a subsequent delay, until, under date of November 16 of the past year, Mr. Reid demanded its immediate presentation to the Chinese Government. Under date of July 8 you stated that in your previous dispatch to the Kungli yamèn you had "demanded that in the settlement account should be taken of" Mr. Reid's "claim for damages and reparation made." Being led to suppose that his claim had been formally presented to the Chinese Government, Mr. Reid inquired of the matter from the Chinese officials, but was met with the reply that they knew nothing about it. Mr. Reid, under date of July 19, again wrote you asking if his claim, as formally and legally made out, had been presented to the Chinese Government, and the reply was that you had demanded "a full and entire settlement, covering the first purchase, the punishment of the rioters, and compensation to you." From this we supposed, until the receipt of your letter of November 19, that Mr. Reid's claim had been fully presented.

The punishment of the ringleaders in the riot.

It seems to us a matter of regret and augurs ill for the future security of foreigners in the interior of China that thus far, after a lapse of 2 years, no punishment has been visited upon the guilty parties. Our conviction as to the justice and expediency of their punishment remains unchanged—a conviction, we trust, which is not grounded on any desire for revenge, but on a sense of justice and a desire for security in the prosecution of our work.

Possession of the house lot originally contracted for or the granting of another lot in exchange.

In September, 1887, Rev. Gilbert Reid, in behalf of the mission, took a perpetual lease of a house in the east suburb of this city, and in November, 1888, Robert Coltman, M. D., purchased a tract of land in the open country west of the city. Now that we have secured, through your intervention and our own exertions, the settlement of the last case, you express the opinion that "the acceptance of the country tract must, in my opinion, be taken as a waiver of the right to claim the original lot," and the grounds for this view may be found in the words, "I repeat that if I erred in believing that the possession of this new tract was to be in lieu of the original demand, you yourselves are to blame for this misconception." We are entirely willing to acknowledge our responsibility for our own actions and statements; but, in view of the importance of the question, we respectfully call your attention to the following points:

(1) The inference that the possession of the piece of property in the open country would be accepted in view of the original property in the suburb was drawn from two letters of Mr. Reid and Dr. Coltman, while every other communication addressed to you has implied, as we understand it, the contrary. The basis of such an inference was merely a fear or personal belief on the part of some of us that such *might* be the final result, but not that it was to be the inevitable, still less the desirable, result.

(2) In the letter of Dr. Coltman, from which you particularly quote, it is further stated by him, "I am writing now as a private individual without consulting my colleagues." It seems, then, that the definite mind of the whole mission had not as yet been formally made known to you until the letter of February 1.

(3) If Mr. Reid regarded the new scheme as "an abandonment of the original claim," and therefore "resigned his position as manager of the affair," then his resumption of the position in June last indicated just as plainly the nonabandonment of the original claim. Indeed, he might have consistently resumed the position by the end of January, at which time the purpose of the mission was definitely announced.

(4) That Dr. Coltman had "obtained permission from the Shan-Tung mission to purchase a site for residence and hospital within a limit of 3 li from any suburb gate," is true; but the mission, at its annual meeting in December, 1889, plainly indicated its intention by passing a resolution that the resolution of the previous year "was not intended to affect plans then on foot with reference to procuring property in the southeast suburb of Chi-nan-fu." Although Your Excellency has, of course, had no opportunity as yet of being informed of this action, we yet mention the fact in this connection to indicate the position of the Shan-Tung mission.

(5) That you might know the real position of this mission, you asked, under date of January 22, "Will you please inform me whether the mission has abandoned its purpose to secure the identical property for which a contract had been made, or in exchange therefor other property in the city," and, under date of February 1, a reply was sent, "The sentiment of this mission is opposed to the abandonment of the suggestions which we at the first made to the legation and which you embodied in your dispatch to the foreign office." Also, "to consent, as we have already done, to an exchange of the property in the suburb to another in the suburb seems to us to be yielding all that should reasonably be expected of us."

(6) The inference that you received from two letters in a space of only 2 months was prior to your transmitting a new dispatch to the Tsung-li yamen, and also prior to the formal decision of the mission as a whole. The letter communicating this decision was dated February 1, while on February 18 you sent your dispatch to the Tsung-li yamen, in which you seemed to have followed the implication contained in the two letters of Rev. Mr. Reid and Dr. Coltman rather than the definite decision of the mission as made known in the letter of February 1. In case the statement of the mission had not yet reached you, it seems unfortunate that action was not deferred a little, since, on the one hand, Dr. Coltman referred to the business only as a "private individual," and, on the other, you had prepared a formal letter to the mission, requesting definite answers, and stating that you "will await an answer from" this mission, in order to learn whether we "desire further action."

(7) Even if the inference that was drawn was that possibly by the possession of the second piece of property there would be required a relinquishment of the first, it hardly seems to us expedient to have acquainted the Chinese authorities with the fact. It was hardly possible for you to see the probable outcome of the existing complications more clearly than we did, and yet we carefully refrained from making known to the provincial authorities our private fears or conjectures. The responsibility of making known the possible, but not desirable, result of the negotiations to the imperial authorities certainly does not rest with us.

(8) Only at this late date, in your letter of the 19th, have we learned that the inference drawn had been made known to the Tsung-li yamen, and that your definite policy contemplated an abandonment of the original case. When Mr. Reid in July last learned that the local officials were trying to combine the two property cases, he wrote you, under date of the 18th, asking whether you desired that the original points should be relinquished, and the answer of August 20 was, "In my last dispatch to the yamen I distinctly demanded a full and entire settlement, covering the first purchase, the punishment of the rioters, and compensation to you." From this statement, therefore, we have never understood that it was expected that the possession of the second property would be given only in relinquishment of the first.

(9) If "the possession of this new tract was to be in lieu of the original demand," we remark that such, in fact, has not been the agreement with the Chinese authorities. In July last the deputies, on the basis of your dispatch to the Tsung-li yamen, in February, endeavored to persuade our mission to abandon the original purchase in the event of gaining possession of the second; but the proposition was rejected by the mission, and the official then stated, "We will first settle the land case," i. e., the second purchase. When the deed of the land purchase was stamped, the officials did not insist that as a condition of settling the second it should be accepted as an exchange for the first, but rather hinted that the first case remained unsettled. In fact, then, no exchange has yet been made for the original property. Your demand that there be "a full and entire settlement covering the first purchase" has not been complied with. There was a mutual agreement on the second piece of property, and the deed therefor was duly stamped, but there has been no agreement as yet concerning the first piece.

(10) Whatever may have been the misunderstanding of the past, we earnestly hope that it will yet be possible, considering all subsequent developments, to receive your valuable aid in the settlement of the original purchase. Since the settlement of the second purchase the mission has continued to press for the just settlement of the original case, and had begun to do so before reporting to you in November last. When Mr. Reid was in Peking in that month, he represented to you the measure of success that had already been attained, how the present time was particularly opportune, since the local gentry had ceased to oppose, and, in consequence, in seeking the further mediation of Your Excellency, he would not ask you to enter into any discussion with the Tsung-li yamen or to insist on any definite action, but merely to report that the original property case and that of the riot could not yet be considered as settled. It is therefore a great disappointment to us to read in your letter of November 20, "I can simply very gently advise the mission that, in my opinion, it would be best to abandon any claim to the original lot." Notwithstanding your opinion, as here expressed, we sincerely trust, in view of the fact that the settlement of the original case is still considered a matter for discussion by the local officials, and therefore promises possible success, that Your Excellency may see your way clear to lend us further aid in prosecuting the case. We doubt if property has ever been purchased by missionaries in China more clearly in accord with every regulation of the country. The officials themselves have never for an instant denied the legality of the transaction. If now, after 2 years' standing and discussion, the case should be abandoned, and that, too, by the order of the United States Government, we have grave apprehensions of the results which might follow the establishing of so unfortunate a precedent.

On the other hand, if, with moderation and perseverance, the claim for a suitable exchange for the original purchase be pressed, we hope that fitting property may be acquired, our rights vindicated, and a valuable precedent established.

Such, then, is our view as a mission of the three questions to which you direct our attention. If our language is in any way too strong, we beg you to remember that it is due to our deep sense of the importance of the questions involved. For the assistance of the past, we most heartily thank you, and we hope that the way may still be clear to receive your efficient aid in this, to us, most vital matter.

Submitting the communication to your careful attention,

We, remain, etc.,

JOHN MURRAY,
PAUL D. BERGEN,
WM. P. CHALFANT,
W. B. HAMILTON,
GILBERT REID.

Mr. Denby to Mr. Blaine.

No. 1049.]

LEGATION OF THE UNITED STATES.
Peking, February 9, 1890. (Received April 15.)

SIR: In compliance with your dispatch No. 476 of December 12, I have the honor to inclose herewith copies of all the correspondence that has taken place between the Tsung-li yamên and myself touching the claim of Louis McCaslin for damages suffered by him in the sudden closing of a bridge of boats by the bridge tenders at Ningpo the 29th day of April, 1887.

My first dispatch is No. 17 and bears date November 17, 1888. I therein set forth in detail all the facts of the case. I make a legal argument designed to show that under the treaties the foreigners in China are entitled to joint investigations by the taotais, at which their consuls may appear and assist. I show that the evidence taken by the taotai was *ex parte*.

The next inclosure is No. 13 of November 23, 1888, from the foreign office to me. The foreign office therein informs me that it has directed the governor of Che-Kiang to clearly investigate and take action in the premises.

The next inclosure is No. 2 of February 9, 1889, from the foreign office to me. The yamên therein set forth a copy of a communication of the governor of Che-Kiang to it, wherein the bridge-tenders are excused. An argument is made to justify the action of the taotai.

The next inclosure is my communication No. 3 of February 22, 1889, to the yamên. I therein repeat my demand for a joint investigation, and I controvert the facts as stated by the yamên and argue the question of contributory negligence.

The next inclosure is No. 8 of March 3, 1889, from the yamên. They simply reiterate therein that the governor has been instructed to take action. They did not thereafter make any communication to me touching the ordering of a joint investigation of the case. But the governor of Che-Kiang did order such investigation. Thereupon I sent to the consul at Ningpo the dispatch of which a copy is hereto appended. It occurred, as is stated in my dispatch No. 988, October 31, that the consul did not produce the foreign witnesses at the joint investigation. The taotai decided that McCaslin was not entitled to damages. The consul reported the matter to me in divers dispatches, of which he will send you copies. Thereupon, on the 6th day of August, 1889, in a communication numbered 21, I addressed the yamên again, of which a translation is herewith inclosed. I therein set forth the inadvertence of the consul in not introducing before the joint commission the evidence of the foreign witnesses, and explain how it arose, and state that it thus happened that the yamên and I did not have the same evidence before us, and request that the last finding in the case be set aside and the case reopened, so that all the evidence can be sent to Peking and the case intelligently heard and examined. On August 14, 1889, the yamên sent to me a communication numbered 23, of which a translation is herewith inclosed. The yamên therein refuses to order the judgment to be reopened and to allow another trial to be had. They go to some length in the case and argue the facts, as well as the law. On the 26th of August, 1889, I sent to the yamên a communication numbered 23, a copy whereof is herewith inclosed. I therein reargue the question of law as to the reopening of the judgment, and seek to show that this case was not a case between individuals, but in its issue was against the local authorities, and that strict rules of law, if appli-

cable at all, ought not to be relied on. I reiterate the fact that the yamén has never had before it all the evidence, and therefore can not decide the case justly, and I offer, in the event that the case is not reopened, to send to the yamén all the evidence in my possession.

On the 4th of September, 1889, in a communication numbered 25, of which a translation is herewith inclosed, the yamén replies to my communication of August 26. The yamén therein claims that the judgment is final and can not be reopened under Chinese law; that the plaintiff did not appear before the court and did not introduce any witnesses, and that he must suffer the consequences of his negligence. Then follow some remarks on the contrast that I had presented between the treatment of the Chinese in America, to whom heavy damages were paid in several cases, and the treatment of Americans in China. This communication ended the correspondence between us.

The dispatch to Consul Pettus heretofore alluded to is No. 28 of April 3, 1889. I inclose herewith a copy thereof. It will be seen that the consul was instructed to attend the joint investigation and "to make the best case" he could. These instructions were, unfortunately, not carried out literally. It would seem, however, from the whole correspondence, that the yamén would in no event have ordered the payment of damages. If the Department, from a perusal of this correspondence and of such papers as Consul Pettus may forward, concludes that injustice has been done to Mr. McCaslin, it may still be possible some time in the future, following the precedent in the celebrated Hill case, to provide that, in the event of any claim being made by Chinese subjects against the United States for damages, the claim of McCaslin should be recouped.

I have, etc,

CHARLES DENBY.

[Inclosure 1 in No. 1049.]

Mr. Denby to the Tsung-li yamén.

No. 17.]

NOVEMBER 17, 1888.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to submit for your favorable consideration the following facts touching a claim for damages of Louis McCaslin, a citizen of the United States residing at Ningpo, which has been sent to me by the United States consul. It has been submitted to my Government, and I have been ordered to bring it to the attention of Your Highness and Your Excellencies. The facts, as they appear in bulky depositions and affidavits in my possession, are as follows: On the morning of the 29th of April last Mr. McCaslin, the claimant, entered his house boat with Captain Pratt, wife, and child, and two Chinese servants, together with four Chinese boatmen, and started on a pleasure trip to Ning-wang-shan, some 12 or 15 miles from Ningpo. The weather being unfavorable, they did not go farther, but started on their way home. They came to the bridge of boats, a public highway having drawbridges, or certain pontoons that could be opened for the passage of junks, ships, etc. Mr. McCaslin found the tide high and that an opening was made for the passage of a junk having mandarins on board; he fell into the wake of the junk, so as to keep a safe and speedy passage through, as agreeable to the custom of passage of boats; his house boat was only some 15 feet in the rear of the junk, but on his entering the open space made for the passage of the junk, which had just cleared, to the surprise of all on board the house boat the bridge-keepers commenced closing the opening, although the Chinese boatmen begged them not to do so, as did Captain Pratt. Fortunately, but for the presence of mind of Captain Pratt, of the steamer *Kiangtun* (an old and experienced seaman), the boat would have capsized and about 10 lives on board would have been lost. Mr. McCaslin, the claimant, in aiding Captain Pratt and the boatmen in their time of danger, was struck on the right ear by the pontoon, jamming him up against the forward end of the house boat and knocked him through the door into the boat, causing great injury to his right jawbone,

it being broken in three places, both ends of the bone sticking up against the roof of his mouth, his right arm injured and his thumb dislocated, which injuries Dr. Daly, who attended him, declares would be permanent. On the happening of these injuries the consul addressed to the taotai at Ningpo a communication relating thereto and asking an investigation and proper reparation. The taotai replied that the matter should have attention, and directed Major Watson, an Englishman employed on the police, to examine the boatmen touching the same and report.

Consul Pettus was notified May 4, 1888, that the boatmen would be examined on that day. The evidence of the boatmen was taken and is conclusive that the bridge-keepers intentionally shut the gate on the house boat. Afterwards the taotai addressed a note to the consul stating that he had examined these persons connected with the bridge and the evidence of the boatmen, and that he had closed the case. This extraordinary conclusion was reached without giving the consul or Mr. McCaslin any opportunity to be heard at all. The consul remonstrated with the taotai, stating that his conclusion did not correspond with the evidence of the boatmen, copied by his interpreter, and that he demanded, under the treaty stipulations, a joint investigation of the case.

On the 11th of the fourth moon (May 21) the taotai answered that the case was closed upon the evidence he had; but he did not furnish to the consul a copy of the evidence, as he had been requested to do. The consul thereupon notified the taotai that he would himself hold a court of investigation the 2d day of the fifth moon. This examination was held, and the proof was taken. It shows conclusively that the bridge-keepers willfully shut the gate and caused the injuries complained of. In China, if an injury is done by a foreigner to a Chinese subject, it is entirely competent for the injured party to sue the foreigner in the consular or other court of his nationality. If the case is reversed, and an injury is done by a Chinese subject to a foreigner, the rule is not to sue the Chinese subject in a native court, but to apply to the local authorities for redress, and, failing to get redress, to appeal, as is done in this case, to the legation to present the matter to Your Highness and Your Excellencies for your kind consideration.

Article XXVIII of the treaty of 1858 with the United States provides that if controversies arise between citizens of the United States and subjects of China which can not be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction. It would seem that the taotai entirely ignored this clause in the treaty. He refused to order a joint investigation and closed the case on *ex parte* testimony, taken without notice to, and in the absence of, the injured party. As the bridge-keepers in this case were public officials in the employ of the local authorities, they are clearly responsible for their willful misconduct. If this be not so, the foreigner in China would rarely have a remedy for any injury done him, because employes are ordinarily irresponsible.

If redress can not be obtained before the local authorities, the foreigner has no recourse except to treat the claim as one of an international character and to look to the Imperial Government for redress.

In this case the damages suffered by Mr. McCaslin are very serious, and he demands 10,357.50 taels as compensation therefor. The case as presented is important. It is desirable to know whether Your Highness and Your Excellencies will sustain the taotai in his arbitrary refusal to order a joint investigation.

I have the honor to request that he be ordered to have an immediate joint investigation of the case, and to decide it fairly on the facts and law, and, if he refuses to allow Mr. McCaslin any damages, that he be required to report in detail the evidence in the case to Your Highness and Your Excellencies. In that event the evidence presented by the claimant will also appear, and I do not doubt that on appeal to Your Highness and Your Excellencies and myself we will arrive at a correct conclusion. Should this course be not adopted, I have then to request that Your Highness and Your Excellencies will kindly consider the evidence in my possession, which will be furnished to you if desired, and that, after examining it, Your Highness and Your Excellencies will order the sum demanded to be paid to the claimant.

With assurances, etc.,

CHARLES DENBY.

[Inclosure 2 in No. 1049—Translation.]

The Tsung-li yamen to Mr. Denby.

No. 13.]

NOVEMBER 23, 1888.

YOUR EXCELLENCY: Upon the 17th of November the prince and ministers had the honor to receive a communication from Your Excellency in regard to the case of Mr. Louis McCaslin, an American merchant, who sustained injuries at the hands of the

bridge-keeper in charge of the bridge of boats at Ningpo, and that the intendant of Ningpo had refused to hold a joint investigation of the case with the consul.

Your Excellency requested that the intendant be instructed to take up the case and deal with it fairly, etc.

In reply, the prince and ministers would observe that the yamén have already sent a communication to the governor of Che-kiang to clearly investigate and take action in the premises, and on receipt of his report they will inform Your Excellency.

As in duty bound, the prince and ministers send this communication beforehand for Your Excellency's information.

To His Excellency CHARLES DENBY.

[Inclosure 3 in No. 1049—Translation.]

The Tsung-li yamén to Mr. Denby.

No. 2—1889.]

FEBRUARY 9, 1889.

YOUR EXCELLENCY: Upon the 17th of November, 1888, the prince and ministers had the honor to receive a communication from Your Excellency in regard to the injuries which Mr. Louis McCaslin received at the bridge of boats (in Ningpo), wherein you requested that instructions be sent the Ningpo taotai to at once hold a joint investigation of the case and to satisfactorily decide the same in an impartial manner, etc. At the time the yamén addressed a communication upon the subject to the governor of Che-kiang and also acknowledged Your Excellency's communication, all of which is a matter of record. The governor of Che-kiang has replied, giving the following statement submitted to him by the taotai of the Ning-Shao-Tai circuit (Ningpo), viz: "He has carefully examined and made inquiries and had obtained the true facts of the case, and it appears that the men in charge of the bridge really had no intention to try to do evil or harm to Mr. McCaslin as a matter of revenge; that it was a question of carelessness on the part of the boatmen, and he certainly could not hold the bridgemen responsible for the offense of causing the collision. Further, there is the evidence taken by Major Watson. The said foreign merchant has gradually recovered from his injuries, and there is no need to hold a joint investigation, thus saving further trouble."

Having received the yamén's communication, the governor respectfully presents the circumstances of the action taken by the Ningpo taotai, together with copies of the correspondence (between the consul and the taotai), the evidence taken at the police office, and the facts or circumstances ascertained upon inquiry.

With regard to this case, it seems that the said taotai had carefully examined into and made secret inquiries regarding it, and, as there was not the least ground to doubt that what was right and proper had been done, he thereupon gave his decision. Further, when the examination was held at the police office, the interpreter of the United States consulate was present and watched the proceedings, and this should be regarded in the same light as a joint investigation. As in duty bound, the prince and ministers transmit herewith a copy of the reply of the governor of Che-kiang for Your Excellency's perusal. Besides, there is the evidence taken at the police office and the facts ascertained by secret inquiries being made by the police in disguised dress; but, as Your Excellency stated in your dispatch that you had on file in your legation the papers and evidence of the case, copies of them are not sent. But should Your Excellency wish to peruse them, the prince and ministers will have copies made and transmitted to you.

A necessary communication, etc.

[Inclosure 4 in No. 1049.]

Mr. Denby to the Tsung-li yamén.

No. 3—1889.]

FEBRUARY 22, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of the communication of Your Highness and Your Excellencies to me of date the 9th of February, 1889, in regard to the claim for injuries received by Louis McCaslin at the bridge of boats at Ningpo.

You therein state that the evidence was taken before the police superintendent, Major Watson, and that the taotai "made secret inquiries," and that a joint investigation which the treaty requires is not necessary. I know of no mode of arriv-

ing at the whole truth in judicial matters except an open investigation, at which both parties are present and have the right to sift matters to the bottom by examination and cross-examination of witnesses. This case fully illustrates this idea. I have before me the evidence of the boatmen, which fully sustains the justice of the claim. Your Highness and Your Excellencies also allude to the evidence in your possession, which can not be the same as that which is in mine. You allude, also, to "secret inquiries." But if "secret inquiries" are to control, all persons could make any statement they pleased.

The first boatman examined states: "We called out to the people not to close; they looked at our boat, and, seeing it was foreign, they turned and closed the bridge."

The second boatman says the injuries happened "because the bridge-keepers persisted in closing the bridge, although we repeatedly asked them not to when the boat was partly through."

The third boatman says: "The house boat was partly through the bridge when the keepers began closing it; we called out to them to stop, but they looked at us and took no notice; they turned and proceeded to close the bridge."

The fourth boatman says: "We shouted to them not to close, but they took no heed, but proceeded to shut the bridge, striking our boat."

This is the evidence as reported to me, which was taken at the Compo police station. Negligence or a willful desire to inflict injury could scarcely be more clearly shown.

Other proof in my possession from foreign witnesses is still stronger. Some stress is laid upon the statement that Mr. McCaslin has gradually recovered from his injuries. That has nothing to do with his right to recover damages.

Some stress is laid, also, on the statement in the report that if Mr. McCaslin had not gone to the front of the boat he would not have been injured. This may or may not be true. It is altogether likely that his courage and devotion prevented a serious accident, which would have resulted in the sinking of his boat and the drowning of all the occupants thereof. But, however that may be, it is a universal principle that where, by the negligence of others, a man is put in circumstances of great peril he is not chargeable with negligence, even if, acting on the spur of the moment, he runs into danger. Thus, when a collision takes place between two vehicles, one who endeavors to save himself by jumping and is therefore injured is not liable to have imprudence or carelessness imputed to him. But this is not the time to argue what the effect of evidence is. The evidence has not been taken by a joint investigation, and we have not got it in full before us. This mode of examination is just to all parties. If Your Highness and Your Excellencies establish the precedent that a joint investigation shall not be had whenever the said taotai announces that he has prejudged the case it will return to plague you on many future occasions. It may work in your favor in this instance, but your opponents may rely upon it when it suits them, and a correct decision may thus be often avoided. I trust that on a reconsideration of the question Your Highness and Your Excellencies will see that no harm can possibly arise by standing by the rule that legal investigations affecting foreigners under the treaties should be open and joint. I ask at present that the taotai be ordered to hear this case in the regular way and to report the evidence taken before the joint tribunal. The presence of the interpreter of the consulate at the police officers' examination was in no sense a joint investigation. If, however, Your Highness and Your Excellencies so consider it, then I say that the evidence taken sustains Mr. McCaslin's claim, and I have only to ask that it be ordered to be paid.

With assurances, etc.,

CHARLES DENBY.

[Inclosure 5 in No. 1049.—Translation.]

The Tung-li yamén to Mr. Denby.

No. 8.]

MARCH 3, 1889.

YOUR EXCELLENCY: Upon the 22d of February last the prince and ministers had the honor to receive Your Excellency's communication in regard to the claim for injuries received by Louis McCaslin at the bridge of boats at Ningpo. You state in your communication that the evidence of the boatmen in possession of the yamén can not be the same as that in Your Excellency's, and you again request that the taotai be ordered to hear the case in regular way before a joint tribunal with the consul. The yamén have addressed the governor of Che-kiang to instruct the taotai to satisfactorily and speedily take action in the premises, and on receipt of a report the prince and ministers will inform Your Excellency. In the meantime, as in duty bound, the prince and ministers send this communication for Your Excellency's information.

A necessary communication, etc.

[Inclosure 6 in No. 1049.]

Mr. Denby to the Tsung-li yamén.

No. 21.]

AUGUST 6, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES: On the 22d of February I had the honor to ask Your Highness and Your Excellencies to order that a joint investigation of the McCaslin case be had by the taotai and the American consul at Ningpo. Your Highness and Your Excellencies kindly agreed to this proposition, and the joint investigation was ordered. The American consul inquired of the taotai whether he should introduce the foreign witnesses whose testimony had already been taken by him, and he was told to "suit himself." He took this statement as meaning that the foreign witnesses need not be introduced before the taotai, but that their evidence already given would be considered by the taotai the same as if they had been examined before him. But after the taotai had taken the testimony of the native witnesses he refused to consider the testimony of the foreign witnesses on the ground that it was not taken before him. It thus happens that the only proof that avails Mr. McCaslin is the testimony of the four boatmen, and that you will still not have before you when you undertake to consider this case any proof of the foreign witnesses, which is most material to the plaintiff's case.

Article IV of the treaty of 1880 between China and the United States, which is entitled, "Treaty concerning commercial intercourse and judicial procedure," provides that in controversies arising between the subjects of China and the citizens of the United States the properly authorized official of the plaintiff's nationality, "if he so desires, shall have the right to be present, to examine and to cross-examine witnesses. The American consul would have availed himself of this right if he had not been misled by the taotai's statement above quoted. I have the honor, therefore, to request that Your Highness and Your Excellencies will direct the taotai at Ningpo to reopen the case and to examine the foreign witnesses in the presence of the United States consul. Then, if the taotai decides that no compensation is due to the plaintiff, he be directed to send all the evidence, foreign and native, to Your Highness and Your Excellencies, so that Your Highness, Your Excellencies and myself can have before us the same evidence and can arrive at a just conclusion.

I avail, etc.,

CHARLES DENBY.

[Inclosure 7 in No. 1049—Translation.]

The Tsung-li yamén to Mr. Denby.

No. 23.]

AUGUST 14, 1889.

YOUR EXCELLENCY: On the 6th instant the prince and ministers had the honor to receive a communication from Your Excellency in relation to the case of Louis McCaslin, wherein you requested that the taotai of Ningpo be directed to reopen the case and examine the foreign witnesses in the presence of the United States consul, etc.

In this case the prince and ministers would observe, that after receiving Your Excellency's communication in February last, in compliance with Your Excellency's request, they instructed the Ningpo taotai to satisfactorily and speedily take action in the premises. Now, that officer has recently presented a report embracing all the circumstances, a minute and detailed statement of which the prince and ministers present to Your Excellency. With regard to this case, if there never had been from the first to last a joint investigation of it, the prince and ministers would naturally have taken action in accordance with the request contained in Your Excellency's communication. But before the joint investigation took place the taotai addressed a communication to the United States consul at Ningpo, wherein he stated that, as to summoning the plaintiff or not, it was a question which he (the consul) must decide for himself. The taotai was, moreover, of the opinion that the plaintiff should, of course, appear in court; but, as he was a foreigner, he consequently requested the consul to act in the matter himself. When the joint investigation was opened, the plaintiff was not present; the taotai thereupon inquired of the consul the reason of his nonappearance, and the reply he received was that he was engaged, or had business, and did not come. But the consul did not state that, as the plaintiff had failed to appear in court, the case could not be determined; neither did he mention that, as the witnesses were not all present, the hearing should be postponed until another day. It is evident, therefore, that the taking of the evidence of the boatmen and bridgemen, representing both parties to the cause of action, was ample and sufficient to decide

the case. But if the plaintiff really and truly felt that he had been wronged or oppressed, he naturally would have shown an anxious desire to appear in court and pray for redress. Then, again, if he were engaged, he should also (in that event) necessarily have gone to the court to watch the proceedings—this is a well-settled governing principle. But as it is, the plaintiff, since he did not appear in court (at the joint investigation), nor request the consul to communicate with the Ningpo taotai asking that the hearing of the case be postponed; and, further, as to the question whether he should have appeared in court or not—in all these the wrong or blame rests with himself. It is the universal rule or practice in the courts of western countries that when a case has been clearly set down for hearing at a fixed time, and the plaintiff has failed to appear in court, the judge can not wait, and the cause at issue can be immediately decided. In the case under consideration, since there were witnesses for the prosecution present in court whose testimony was taken conjointly by the taotai and consul, a decision should, of course, be rendered; and the action taken was not at variance with what is fitting and right. Further, the four boatmen were employed by the plaintiff, and really if they had not heedlessly and rashly ventured in the path of danger how could they have been willing to become resigned and submissive?

The old bridge of boats is an important thoroughfare, and there was hung up a prohibitory notification against small boats following in the wake of the large boats passing through the bridge; but they must pass through the opening or arch on the east, on the side of which is suspended these characters, *Tui Wo Lui*, "come this way." The old regulations are all very clear and explicit. Mr. McCaslin's boat had violated the regulations; he was desirous of seeking his own convenience and had rashly and blindly followed the large boat, with the result that he received injuries. But certainly the fault is entirely his own. The same, for instance, as in western countries, where prohibitory notices are posted on railroads warning persons that no blame can attach to the railway companies if any persons who, seeking their own convenience, heedlessly venture in the way of danger, are thereby killed or wounded. The circumstances attending the present case are precisely identical. In a word, this case has been tried before a joint tribunal in a clear and thorough manner. The plaintiff failing to appear before the court, it was right that upon the evidence submitted a decision should be pronounced. In China, as well as in western countries, the *modus operandi* is the same. The examination of the witnesses having finished, the decision rendered was still in accordance with the former one (given by previous taotai).

The United States consul did not make any comments, from which it may be known that the taotai had certainly not been unjust or indulgent in the treatment of the case. Therefore, the request which Your Excellency has at this time made, that another joint trial be made, is one which the prince and ministers find it difficult to comply with.

And, as in duty bound, they present the foregoing circumstances of the case as presented by the Ningpo taotai, which, they hope, will receive a candid examination by Your Excellency.

A necessary communication, etc.

[Inclosure 8 in No. 1049.]

Mr. Denby to the Tsung-li yamen.

No. 23.]

AUGUST 26, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES: On the 17th instant I had the honor to receive a communication from Your Highness and Your Excellencies in relation to the case of Louis McCaslin, wherein you decline to direct the taotai at Ningpo to reopen the said case for the purpose of hearing the testimony of the foreign witnesses. By a misconception of my implicit instructions, and by a misconception, also, of the real meaning of the statement made by the taotai as to the necessity of producing the said witness before the joint commission, the consul had failed to summon the important witnesses of the plaintiff to appear. Your Highness and Your Excellencies correctly state the facts preceding the last examination. My purpose in asking for an order that the witnesses should all be reexamined before a joint commission was simply that Your Highness and Your Excellencies and I might have before us in the discussion of the case exactly the same evidence. This result has not been obtained. While I have before me all the evidence, as well of native as of foreign witnesses, Your Highness and Your Excellencies still have only the evidence reported by the taotai, which does not cover the evidence of the foreign witnesses. How, then, can Your Highness and Your Excellencies determine as to the merits of the case with only one-half of the evidence in your possession?

In the consideration of this case it is well to bear in mind that it was not an ordinary suit at law by one individual against another, by an American citizen against a Chinese subject. It was essentially a claim against the local authorities for an injury done by their servants, the bridge-tenders. The joint commission was resorted to by me as presenting the surest method of securing all the evidence. Not being a suit by an individual against another individual, the strict rules of law do not apply to it. But even if they did, in western countries several methods are provided for reopening judgments when they are claimed to be erroneous. The fact on which Your Highness and Your Excellencies comment, that the plaintiff McCaslin did not appear, has no significance. All the facts could be proved by other disinterested witnesses. In western countries it is not at all necessary that the plaintiff should appear, and it is only within a comparatively few years that the plaintiff has been permitted to give his own testimony as a witness. Your Highness and Your Excellencies proceed to argue the case on its merits, although you have not before you any of the testimony of the foreign witnesses, which was most important to a proper understanding of the facts. Your Highness and Your Excellencies seem to base your conclusion that Mr. McCaslin ought to receive no damages on the statement that he was himself guilty of negligence, that he violated the rules as to passing the bridge. I am not greatly learned in Chinese jurisprudence. What I do know of it induces me to believe that identical principles of right and justice underlie the civil jurisprudence of all civilized nations, and Your Highness and Your Excellencies can not properly determine whether McCaslin was guilty of negligence or not, not having all the evidence before you. Where an injury has been willfully and wantonly inflicted, the negligence of the injured party cuts no figure. Thus, if a person comes expressly to kill me and I am guilty of negligence in not properly taking precautions to defend myself, I am, nevertheless, entitled to damages for the wrongful act. I claim in this case that the whole evidence will show that the bridge-tenders were repeatedly warned and begged not to close the bridge, and that they wantonly and willfully did so, although they knew that their act in so doing would cause great injury to the occupants of the boat and possibly loss of life. If this be true, it does not at all matter in point of law that the boatmen ought not to have attempted to pass by the opening in which the injury occurred. I therefore renew my request that the evidence of the foreign witnesses may be taken before the taotai and reported to Your Highness and Your Excellencies for your final action. Failing in that, I ask to be permitted to send to Your Highness and Your Excellencies the evidence on file in my legation, and that this claim be considered in view of all the evidence heretofore taken. If, in the end, Your Highness and Your Excellencies adhere to your present decision, I can simply report your determination to my Government.

I beg leave to remind Your Highness and Your Excellencies in all courtesy that my Government, in matters of a character similar to this, has been exceedingly liberal in dealing with the claims of Chinese subjects who have suffered injuries in the United States, having paid in a short period nearly half a million of dollars for such purpose.

I have, etc.,

CHARLES DENBY.

Inclosure 9 in No. 1049.—Translation.

ho Tsung-li yamén to Mr. Denby.

No. 25.]

SEPTEMBER 4, 1899.

YOUR EXCELLENCY: On the 26th of August the prince and ministers had the honor to receive a communication from Your Excellency in relation to the case of Louis McCaslin, wherein you again request that the Ningpo taotai be directed to reopen the case and take the evidence before a joint tribunal of the foreign witnesses and to report it to the yamén for final action in the premises, etc.

In regard to this case, it was clearly and concisely discussed in the yamén's communication in reply to Your Excellency of August 14, and there is now no need to reiterate the arguments then presented. But from Your Excellency's dispatch it would seem that your wish is to have the case determined here and between the yamén and yourself. The prince and ministers are of the opinion that in the trial of cases it is natural to take the evidence submitted in court and rely on it as the proof. Before the joint examination commenced the Ningpo taotai stated to the consul that as to whether the plaintiff should appear before the court or not was a question which he must decide for himself. At the joint investigation, however, the plaintiff did not appear, as the consul did not summon him. It was not (the case) that the taotai did not wish to take the testimony of the foreign witnesses. A decision in the case was thereupon rendered upon all the evidence submitted without objection or opposition from any of the parties (literally, all of them). Now, after judgment has been rendered

and the case settled, Your Excellency requests that the taotai be instructed to reopen the case for the purpose of taking, conjointly with the consul, the evidence of the foreign witnesses. Such a rule of action or procedure has never been practiced in China.

In Your Excellency's communication you observe: "By a misconception of your implicit instructions, and by a misconception, also, of the meaning of the statement made by the taotai as to the necessity of producing the said witnesses before the joint commission, the consul failed to summon the witnesses of the plaintiff," etc.

To this the prince and ministers would remark that the charge of carelessness must be borne by and rest on the consul; the Chinese authorities have not acted in an unreasonable or unjust manner. Your Excellency further remarks that your Government, in matters of a character similar to this, has been exceedingly liberal in dealing with the claims of Chinese subjects who have suffered injuries in the United States, having paid, within a short period, nearly a half million of dollars for such purposes. In regard to the cases at Rock Springs and other places, which occurred in recent years, these were cases where many innocent Chinese, who had committed no crime, were killed and their houses and property destroyed. The suffering and cruel treatment they endured one can not bear to express. The United States Government indemnified the sufferers as an act of commiseration, which fully evinced a staunch and thorough feeling of friendship on the part of a friendly nation, and China is not unaware of this and is grateful for this act. But the circumstances of the present case are different and should not be taken up as being the same and discussed from that standpoint. The prince and ministers therefore present to Your Excellency the true circumstances upon which they can not consent to having a further joint examination for the taking of the testimony of foreign witnesses, and they still hope that Your Excellency will view their decision in a candid and fair spirit.

A necessary communication, etc.

[Inclosure 10 in No. 1049.]

Mr. Denby to Mr. Pettus.

No. 28.]

APRIL 3, 1889.

SIR: Your dispatch No. 37 of the 25th ultimo is at hand.

After considerable discussion with the Tsung-li yamén, I am satisfied that the better plan will be to have the joint investigation which the yamén has ordered. This, on the part of the yamén, is a concession which may pave the way to the recovery of damages. They insisted on the evidence which the taotai sent forward; I insisted on that which you had sent me. A joint investigation will secure the same evidence. After you have taken it, if the taotai still refuses satisfaction, you can appeal to the legation. Then the evidence will be undisputed and there will be common ground for the yamén and the legation to meet on. There is no other possible solution, because as long as the yamén relies on proof which differs from the proof sent by you nothing can be done. I am satisfied that the consent to have a joint investigation is the beginning of a concession which will lead to a payment of damages. Your dispatch is the first intimation I have had that a joint investigation had been ordered. You are therefore instructed to consent to a joint investigation and to make the best case you can. With my knowledge of Chinese character, I am induced to believe that you and the taotai can agree on a settlement if you can make the necessary overtures. If you do not agree, then let the case come to Peking as an appeal from a joint investigation, as the treaty provides.

CHARLES DENBY.

Mr. Blaine to Mr. Denby.

No. 498.]

DEPARTMENT OF STATE,
Washington, February 20, 1890.

SIR: I have received your No. 1018 of the 30th of December last, in relation to the issue of a travel certificate to Chun Arfat, a Chinaman who claims to be a naturalized citizen of the United States.

In your letter of the 29th of December to Consul Crowell you take the correct position that, unless Chun Arfat has a passport or makes application for one, no ground exists for the issue of a travel certificate.

As to the general subject, the Department is inclined to revert to Mr. Frelinghuysen's position that a travel certificate should only issue for the particular trip undertaken by the applicant. It should not be issued under circumstances which permit it to be used in lieu of a passport for residential purposes. The term during which such a travel certificate may be valid can not well be fixed by a general rule. Circumstances may determine a long and circuitous journey, with necessary halts, extending over a considerable period of time. The purpose of the journey, its course and objective point are chiefly to be considered in issuing such a certificate, and not the *time* during which the holder may rove at will or reside outside treaty ports.

If a permit to travel be expanded by a time limit, so as to be tantamount to a permit of residence of specified duration, the door is opened to a logical claim on the part of the Chinese authorities to intervene to attach conditions to the contemplated sojourn of the bearer, thus introducing unnecessary and undesirable complications.

Questions of residential rights and privileges should in all cases rest on the treaties and on the passports which those treaties stipulate as sufficient evidence of the holder's rights.

Approving your views as expressed to Consul Crowell, and necessarily reserving any opinion as to Chun Arfat's citizenship till the question is presented,

I am, etc.,

JAMES G. BLAINE.

Mr. Denby to Mr. Blaine.

No. 1058.]

LEGATION OF THE UNITED STATES,
Peking, February 26, 1890. (Received April 15.)

SIR: I have the honor to suggest that it is desirable that a circular should be issued by the Department directed to the consuls in China particularly setting forth the manner of applying for passports and of issuing travel certificates.

My reasons for making this recommendation are the following:

While the rules concerning passports (paragraphs 133 to 149, Consular Regulations, 1888) are full, as applicable to other countries, no special mention is made of China.

Here the rules have been modified to suit peculiar conditions, and in another revision of the Consular Regulations these modifications should be inserted. One modification is that at places where no notary or other official empowered to administer oaths can be found a certificate may be substituted for the ordinary jurat.

Another modification is that the applicant for a passport must forward to the legation his full Christian and surname in Chinese and English. In Chinese these names are called *Hsing* and *Ming*. The yamen will not countersign a passport unless this rule is complied with.

It happens almost every day that we are compelled to return applications for passports to the consuls because this rule has not been complied with.

Again, the occasions on which travel certificates may be issued are not defined in the regulations. Paragraph 138 provides for the issuance of certificates only in countries where the local laws require the deposit of a passport during the temporary sojourn of a traveler. But

in China, by the direction of the Department, travel certificates are issuable in cases where the applicant has made application for a passport to the legation. In this connection, in my dispatch No. 1018 of December 30, 1889, covering a communication to the consul at Amoy, I recommend that travel certificates may in cases of emergency be issued by the consul when application is made for a passport. In such cases certificates should cover the proposed travel, and not for a year, as is now the rule.

I present, as a suggestion simply, a form of the proposed circular.
I have, etc.,

CHARLES DENBY.

(Inclosure 1 in No. 1058.)

Circular to the United States consuls in China.

Consuls are directed that the rules hereinafter set out must be complied with in making applications for passports to the legation in China.

(1) Duplicate applications must be forwarded to the legation complying in all respects with the forms which are now in use for native and naturalized citizens, as the case may be.

(2) In cases where it happens that no notary or other officer before whom an oath may be administered is accessible to the applicant for a passport, a form of certificate for an applicant for a passport which is herewith inclosed may be adopted. Two persons should sign as witnesses.

(3) In all cases in which application is made to the legation for a passport, the Christian and surnames of the applicant in both the English and Chinese languages must be forwarded to the legation.

(4) Consuls have no power to issue passports; but they may in cases of emergency issue travel certificates. Such certificates shall only be issued by the consuls where the applicant applies for a passport. At the time that the travel certificate is issued the consul shall forward to the legation at Peking the duplicate affidavits mentioned in clause 1 hereof, and he will retain the passport issued by the legation as his voucher for the right to issue a travel certificate until the travel certificate is returned to him, and the passport may then be delivered to the applicant. Such travel certificates shall be good for the proposed trip only, and shall not specify that they are good for 1 year or for any other given time.

Form of approved certificate for applicant.

I, the undersigned, do hereby certify and affirm that the matters stated in my application for a passport of date _____ are true, and that this statement shall in all respects be held and treated the same as if I had personally executed such application before a consul of the United States.

Witness: _____

Mr. Denby to Mr. Blaine.

No. 1061.]

LEGATION OF THE UNITED STATES,
Peking, March 6, 1890. (Received April 15.)

SIR: Referring to my dispatch No. 1058 of February 26 last, relating to passports, I have the honor to call your attention to another phase thereof.

Paragraph 135, Consular Regulations, 1888, requires that a naturalized citizen applying for a passport shall produce the original or certi-

fied copy of the decree of court by which he was declared to be a citizen. The minister is also required to transmit to the Department at the close of each quarter a statement of the evidence on which all passports were issued.

In addition, the forms now in use require that the applicant shall state when and where he was naturalized, with the words following: "as shown by the accompanying certificate of naturalization."

It thus appears that the certificate of naturalization should accompany the duplicate application for passports.

If this means that the original certificate of naturalization shall accompany each application, it is plainly impracticable.

Such certificate could only thus be once used and would probably reach the applicant again after it had been forwarded to the Department. He should have the right to retain the original in his own possession.

I have therefore instructed Mr. Crowell, the consul at Amoy, who has a case in point, that he must require the applicant to exhibit to him the original or a certified copy of the decree of naturalization, and must forward to the legation two copies of such decree or certified copy, with his own certificate that the copies so forwarded are full, true, and correct.

The following form of certificate has been sent him for use:

CONSULATE OF THE UNITED STATES OF AMERICA, CHINA.

I hereby certify that _____, to me well known to be the identical person that he claims to be, this day exhibited to me the original (or a certified copy) of the decree of court by which he was declared to be a citizen of the United States, and the above and foregoing is a full, true, and correct copy of the said decree.

Witness my hand and seal of the said consulate this _____ day of _____.

Consul.

I renew my recommendation that a circular embodying as full information as possible as to the mode of applying for passports be prepared and sent to all the consuls in China.

In spite of all the instructions that this legation can issue, and in spite of my having been compelled to return many passport applications which were defective, they still frequently come to this legation.

Such a circular is absolutely demanded, owing to the silence of the Consular Regulations as to the peculiarities on the subject existing in China.

I do not issue it myself, because I have no authority to overrule the Department's order that travel certificates shall run a year, instead of running for the proposed trip only, as they ought to do.

This is the first application that I have had from a naturalized Chinaman; but there may be others, and this class will bring nothing but trouble to the United States authorities in China. For these reasons I attach some importance to the subject.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1068.]

LEGATION OF THE UNITED STATES,
Peking, March 18, 1890. (Received May 5.)

SIR: I have the honor to inform you that a Chinese subject, having the English name of Alvin F. Howe, applied to me to-day for information as to the mode by which he can gain access to the United States.

He is a Christian, a physician by profession, and an employé of the Methodist mission at Peking. He desires to complete his medical studies in the United States under the patronage of the Methodist Board of Missions. He speaks English very well, and is in all respects reputable. It is likely that his board will apply to you to facilitate his landing in the United States. To enable you to come to a decision in his case, I make a few observations touching the general subject, as well as this particular case.

I have never made but one application to the yamén for a certificate for a Chinese subject who desired to go to the United States. The yamén's reply to that application will be found at page 223, Foreign Relations of 1887. The yamén therein states that it has never issued such a certificate, and, impliedly, it grants my request as a compliment to me. The question whether the yamén should issue certificates, or whether the local authorities should issue them, is held up for future determination. The law on this subject will be found at page 116, United States Statutes at Large, 1883-1885, vol. 23. It will be seen by reference to it that, taking into consideration the peculiar language of China, its form of government, its immense population, the general ignorance of foreign laws and customs, the requirements of the statute are almost impossible of performance. According to the law, the certificate must be issued by the Chinese Government, must be in English, and must cover an accurate history of the applicant. I presume that no certificate complying with these conditions has ever been issued by the Chinese Government. I have often wondered how, without such certificate, Chinese subjects ever gained the right to land in the United States. I have stated to Dr. Howe and his friends here that I deemed it inadvisable to apply to the Imperial Government for the certificate described in the statute of 1884. Some of the reasons why I do not feel inclined to raise the question now are the following: The danger that since the passage of the "Scott law" the yamén would refuse to act, the liability of precipitating a discussion of the whole Chinese question, a disinclination on my part to embark in such a discussion without instructions from you, and the feasibility, as I conceive, of accomplishing the desired purpose through the local authorities. I take it that the "Government of China" does not necessarily mean the Imperial Government, but may be construed to mean a local official, such as a taotai, who represents the Government in the district where the applicant resides.

It would evidently be impracticable to adopt any other interpretation. I have therefore advised Dr. Howe to proceed to Shanghai, near which place he resides, and secure a certificate from the taotai, and have it viséd, as required by law, by the consul-general. If you construe the law differently, and hold that the certificates provided for by the act of 1884 must be issued by the Imperial Government at Peking, I will have time to so inform Dr. Howe, who will not leave until July. If it is your desire that I shall apply to the yamén to frame definite rules under which Chinese subjects can go to the United States, I will take up that subject.

While it must be conceded that the whole question is involved in doubt, and that, in the course of events, some definite solution must be arrived at, still I am inclined to favor the policy of "laissez aller," and to go slowly, and to look to precedent rather than to sudden and positive decisions.

I have, etc.,

CHARLES DENBY,

Mr. Blaine to Mr. Denby.

No. 510.]

DEPARTMENT OF STATE,
Washington, March 24, 1890.

SIR: Referring to your No. 988 of the 31st of October last, in relation to the claim of Louis McCaslin for injuries sustained by him in consequence of the closing of the bridge at Ningpo, on April 29, 1888, I have to inform you that the Department has received from Mr. Pettus, United States consul at that place, a dispatch bearing date the 12th ultimo, in which he transmits copies of his correspondence with yourself and the taotai and a report of the evidence in the case.

The purpose of the new investigation of the matter by Mr. Pettus and the taotai was to take the evidence of the native and the foreign witnesses jointly. Each side had previously examined its own witnesses separately, and for this reason each refused to accept the testimony taken by the other. It thus became necessary, in order to secure a common ground for discussion, to have all the testimony taken jointly by representatives of the United States and China. This point is made clear by the correspondence in the case and by your instructions to Mr. Pettus. The only explanation of his omission to produce his witnesses is found in the response of the taotai to his inquiry whether the foreign witnesses should be called. "If," said Mr. Pettus, in his letter to the taotai of April 15, 1889, "you also wish that the foreign witnesses be called in again and their evidence retaken, I can have them summoned for the date decided upon." In his letter of the 1st of May, 1889, the taotai, replying to Mr. Pettus's inquiry, said: "I beg to state you must suit yourself about the foreign witnesses." From this Mr. Pettus inferred, and seems to have had good ground to infer, that the presence and reëxamination of the foreign witnesses would not be required.

The natural construction of the taotai's language would be that if Mr. Pettus desired to reëxamine his witnesses for the purpose of eliciting new evidence, he would be at liberty to do so, but that, if he preferred, he might let the claimant's case rest on the evidence already taken. When, however, the taotai had examined the native witnesses, he closed the case, refusing to consider the evidence of the foreign witnesses previously taken, and rendered a decision against the claimant. The first and only object of the reëxamination of the case was thus completely defeated by a misunderstanding, for which the taotai was certainly largely responsible and of which he took advantage. It can not be said that there has been any joint investigation of the case in the sense in which that term was understood by yourself and the imperial authorities when Mr. Pettus and Taotai Nu were respectively instructed to proceed in the reëxamination of the matter.

The Imperial Government should not permit a fair and just consideration of the case to be prevented by such a misunderstanding between

the consul and the taotai as that which has been described, or permit an adverse judgment of so doubtful a character to stand.

You are instructed to communicate these views to the Imperial Government.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Denby.

No. 512.]

DEPARTMENT OF STATE,
Washington, April 12, 1890.

SIR: I have to acknowledge the receipt of your No. 1045 of the 4th of February last, in relation to the Chi-nan-fu land case and transmitting copy of a communication to you from the Presbyterian mission on the same subject of January 10, 1890.

The letter from the mission is a somewhat exhaustive statement of the position of its members on the question of an implied relinquishment by them of their claim to the original suburban house lot bought by Mr. Reid, and as such casts new light upon the general subject. Their understanding appears to have been sufficiently clear that the purchase of the country tract by Dr. Coltman and the ratification of its sale by the Chinese authorities was entirely independent of the original land transaction in the suburbs. The idea that the tract secured by Dr. Coltman was to be taken in lieu of the lot contracted for by Mr. Reid would appear with some degree of probability to have originated in the minds of the members of the Tsung-li yamén, although the mission admits that several of its members feared or believed personally that such might be the final result of the second negotiation, as the simplest means at the command of the local authorities of allaying popular excitement.

So far as your misconception of the position of the mission as a body on this question is concerned, it is not at all plain that any blame therefor should attach either to you or to them in view of the fact that Mr. Reid and Dr. Coltman had intervened by personal letters for your information, and in consideration of the lines laid down by the Tsung-li yamén in its communications to you. At the same time, it would be hardly just that the mission should suffer in consequence of the separate and individual acts of one or two of its members not concurred in by all or by a majority.

Popular prejudice at Chi-nan-fu appears to render it impracticable for Mr. Reid to pursue further his claim upon his contract for the original suburban lot; but the claim that another house lot in another part of the suburbs should be procured in lieu of the original lot ought not to be lightly foregone if there seems to be any chance of its being successfully maintained without friction or unpleasant complications.

Your own suggestions, however, that the missionaries surrender the deed of the original lot, recover the purchase money, and undertake to secure another such lot as a movement entirely new and independent of the original contract is deemed preferable, as being in all probability the least open to objection by the local authorities, and provided, of course, the mission can be induced to accept that solution of the difficulty before any attempt is made to obtain an exchange at the hands of the yamén; and provided, further, that assurance can be obtained before the surrender of the old lot that no impediment will be thrown in the way of the acquisition of a new one of equivalent value.

In either event it is desired that you afford the mission such assistance as may be properly in your power to sustain the contention that the first land question is not to be considered as having been settled by the grant of the country tract *per se*, as assumed by the yamén, and that, using your discretion in the method of treating the matter, you endeavor to bring the views of the mission and your own on this subject into harmony, in order that you may proceed to a just termination of the existing differences between the mission and the authorities, under the provisions of the treaty of 1844 with China, as adverted to by text in my number 495 of January 31 last.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Denby.

No. 517.]

DEPARTMENT OF STATE,
Washington, April 18, 1890.

SIR: I have to acknowledge the receipt of your No. 1049, of February 9 last, with inclosures, reporting action by you in the case of the claim of Louis McCaslin on account of injuries suffered by him in consequence of the closing of the bridge at Ningpo, on April 29, 1888, and from which it appears that you have in the main anticipated the Department's instruction No. 510 on the subject.

Reiterating the views expressed in that instruction, it is desired that you present the case to the Imperial Chinese Government *de novo* and request a reopening thereof as by explicit direction of this Government, upon the ground that the course of Mr. Pettus in the so-called joint investigation before the taotai of Ningpo was, in the opinion of this Government, justified by the ambiguity of that officer's answer to the consul's question as to the necessity for the presence of the plaintiff's witnesses in court for the purpose of giving oral testimony for Mr. McCaslin. The advantage promptly taken of that ambiguity by the taotai, notwithstanding the fact that he was alone responsible for it, in his reception of the evidence previously given in the plaintiff's behalf, is deemed by this Government to fully sustain its claim that the case shall receive, in fact, the joint hearing which was agreed upon.

The facts in the case seem to have been fully reported to the Department by yourself and Mr. Pettus, and it does not appear from anything submitted here that blame can attach to Mr. Pettus in any degree for the apparently total miscarriage of justice, or that any reason can be assigned to him for the failure to hold a joint investigation as ordered by the yamén.

The point should be insisted upon that this Government can not regard the last hearing of the case by the taotai as a "joint investigation" even by implication, and that the consul can not be permitted to be called to account for his most natural construction of the taotai's language: "I beg to state you must suit yourself about the foreign witnesses." Unless that sentence was intended to convey the idea that the presence and oral repetition of the testimony of the foreign witnesses already on file in writing would not be required by the taotai, it is not clear what idea it was meant to express.

After considerable correspondence between yourself and the yamén, a joint investigation was ordered as an admission by the Imperial Government that the separate hearings already had were found incapable

of attaining the ends of justice and for the express purpose of bringing the evidence of both sides before the court. That purpose was distinctly defeated by the indirect and misleading language of the taotai in reply to the consul's question as to the necessity for the presence of the foreign witnesses at the joint investigation, and by no other means. In this view of the case, it is not doubted that the Imperial Government will, upon a proper presentation of the facts by this Government, perceive the propriety of reopening the case in order that its own original purpose in directing a joint investigation may not appear to have been avoided by the equivocal course of the taotai of Ningpo.

You may communicate this dispatch by reading to the yamên, and, if desired, you will leave a copy with them, fortifying the representations herein by such oral recital of your previously advanced arguments as may seem proper.

I am, etc.,

JAMES G. BLAINE.

Mr. Denby to Mr. Blaine.

No. 1113.]

LEGATION OF THE UNITED STATES,
Peking, May 5, 1890. (Received June 20.)

SIR: In further reply to your dispatch No. 510 of March 24, 1890, relating to the claim of Louis McCaslin for injuries received by the wrongful closing of a bridge of boats at Ningpo, April 29, 1888, I have the honor to state that I have sent to the foreign office a communication, of which a copy is herewith inclosed.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1113.]

Mr. Denby to the Tsung-li-yamên.

No. 5.]

LEGATION OF THE UNITED STATES,
Peking, May 5, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inform Your Highness and Your Excellencies that I have received instructions from my Government, to again bring to your attention the necessity of having a joint investigation in the McCaslin case, being a claim against the Government of China for injuries suffered by Louis McCaslin at Ningpo, April 29, 1888.

As to the most satisfactory mode of communicating the views of my Government, I have the honor to send you a translation of the material part of the dispatch I have received.

"I have to inform you that the Department has received from Mr. Pettus, United States consul at Ningpo, a dispatch bearing date the 12th of February, in which he transmits copies of his correspondence with yourself and the taotai and a report of the evidence in the case.

"The purpose of the new investigation of the matter by Mr. Pettus and the taotai was to take the evidence of the native and the foreign witnesses jointly. Each side had previously examined its own witnesses separately, and for this reason each refused to accept the testimony taken by the other.

"It thus became necessary, in order to secure a common ground for discussion, to have all the testimony taken jointly by the representatives of the United States and China. This point is made clear by the correspondence in the case and by your instructions to Mr. Pettus. The only explanation of his omission to produce his witnesses is found in the response of the taotai to his inquiry whether the foreign witnesses should be called. 'If,' said Mr. Pettus in his letter to the taotai of April 15, 1889, 'you also wish that the foreign witnesses be called in again and their evidence retaken, I can have them summoned for the date decided upon.'

"In his letter of the 1st of May, 1889, the taotai, replying to Mr. Pettus's inquiry, said: 'I beg to state you must suit yourself about the foreign witnesses.'

"From this Mr. Pettus inferred, and seems to have had good grounds to infer, that the presence and reëxamination of the foreign witnesses would not be required.

"The natural construction of the taotai's language would be that, if Mr. Pettus desired to reëxamine his witnesses for the purpose of eliciting new evidence, he would be at liberty to do so, but that, if he preferred, he might let the claimant's case rest on the evidence already taken. When, however, the taotai had examined the native witnesses, he closed the case, refusing to consider the evidence of the foreign witnesses previously taken, and rendered a decision against the claimant.

"The first and only object of the reëxamination of the case was thus completely defeated by a misunderstanding, for which the taotai was certainly largely responsible, and of which he took advantage.

"It can not be said that there has been any joint investigation of the case in the sense in which that term was understood by yourself and the imperial authorities when Mr. Pettus and the taotai were respectively instructed to proceed to the reëxamination of the matter.

"The Imperial Government should not permit a fair and just consideration of the case to be prevented by such a misunderstanding between the consul and the taotai, or permit an adverse judgment of so doubtful a character to stand.

"You are instructed to communicate these views to the Imperial Government."

I made substantially the same argument to Your Highness and Your Excellencies on divers occasions.

My Government puts the facts and the law in a very strong light, and I trust that Your Highness will now see the propriety of setting aside the judgment complained of, and that justice may be done.

I avail, etc.,

CHARLES DENBY.

Mr. Blaine to Mr. Denby.

No. 523.]

DEPARTMENT OF STATE,
Washington, May 6, 1890.

SIR: I have to acknowledge the receipt of your Nos. 1058 and 1061 of February 26 and March 6, respectively, in which you suggest that a circular, a draft of which accompanies your No. 1058, be sent to the consuls of the United States in China, relative to the issuance of passports and travel certificates under the peculiar conditions existing in that Empire.

Your opinion that travel certificates, when issued by consuls to parties who have applied for passports, but who are anxious to depart on a journey into the interior before their application can be acted upon by your legation, should be limited to be good only for such journey was fully set forth in your No. 1018 of December 30, 1889, and has already received the approval of the Department in its instruction No. 498 of February 20, 1890.

In cases, therefore, where travel certificates are required by the local authorities they may be issued by United States consuls in China to two classes of persons:

- (1) Those who possess American passports; and,
- (2) Those who have actually and regularly applied for such passports.

No objection is now perceived to the continuance of the present practice of issuing to those who come within the first of these categories travel certificates good for 1 year: and great hardships might, as pointed out in Mr. Smithers's No. 22 of May 15, 1885, be imposed upon them, especially when engaged as missionaries at a distance from any consulate, by the adoption of any other rule.

But with regard to the second class, where of necessity the validity of the travel certificate is conditioned upon the subsequent issuance of the passport, it is eminently proper that the efficacy of the certificate

should be narrowly restricted. It is therefore deemed advisable that the certificate issued to such parties should be expressed to be good only for the particular journey, and not longer than 1 year.

It is apparent from your No. 1061 that you misapprehend the nature of the returns required by the regulations relative to passports issued by the representatives of the United States abroad. Those regulations do not contemplate the retention by such officers, or the transmission to this Department, of the certificate of naturalization which should accompany the passport application of a naturalized citizen. That application, if properly filled out, shows the date of naturalization and the court which granted it, and is a sufficient record of these facts for the purposes of this Department.

It is intended that the application should be compared with the naturalization certificate by the officer issuing the passport, and that if he finds that they correspond he should certify this fact upon the application and return the naturalization certificate, with the passport, to the applicant. The passport clerk of this Department, in cases of this class, writes the word "correct" and his initials across that part of the application which contains the statements above alluded to.

In accordance with these views, a circular, a copy of which is herewith inclosed, has been sent to the consuls of the United States in China.

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1 in No. 523.]

Circular to the consular officers of the United States in China.

DEPARTMENT OF STATE,
Washington, May 1, 1890.

GENTLEMEN: The attention of the Department having been called to certain irregularities in the preparation of passport applications and the issuance of travel certificates by consuls of the United States in China, it is deemed advisable to give the following instructions supplementary to article x of the Consular Regulations:

- (1) Consuls have no authority to issue passports.
- (2) Applications for passports must be forwarded to the legation in duplicate, and must correspond in all respects with the forms now furnished by the Department, a sample set of which is herewith inclosed.
- (3) In cases where no notary or other officer authorized to administer oaths is accessible to the applicant for a passport, such applicant should transmit with his application a certificate, a form for which is herewith inclosed. Two persons should sign with him as witnesses.
- (4) In all cases in which application is made to the legation for a passport, the full Christian name and surname of the applicant, in both the English and the Chinese languages, must be forwarded to the legation.
- (5) When application for a passport is made by a naturalized citizen of the United States, or by one who claims citizenship through the naturalization of his or her parent or husband, the proper naturalization certificate should be transmitted, with the application, to the legation. It will be returned with the passport.
- (6) Consuls may issue travel certificates to persons about to make a journey into the interior of China only when such certificates are required by the local authorities, and only to parties who possess, or who have made formal application for, passports as citizens of the United States. To those who possess passports travel certificates may be issued, as is understood now to be the practice, to be good for 1 year from their date. To one who has merely applied for a passport a travel certificate should be issued only when he desires to start on his journey before his passport can be received from the legation, and must be expressed to be good only for the particular journey for which it is sought; but its validity for such journey shall not be of greater duration than 1 year. If the application for a passport in such a case is refused upon the ground that the applicant is not a citizen of the United States, it becomes the duty of the consul who issued the certificate to notify the person to whom it was issued and the proper Chinese authorities that it is no longer valid.

Forms for these certificates are herewith inclosed, and, in order that there may be uniformity in the Chinese counterpart thereof, the consul-general of the United States at Shanghai has been instructed to prepare and transmit to you the necessary Chinese text.

I am, gentlemen, your obedient servant,

WILLIAM F. WHARTON,
Assistant Secretary.

Form of certificate to be attached to a passport application when a notary public or other officer authorized to administer oaths is not accessible to the applicant.

I, the undersigned, do hereby certify and affirm that the matters stated in my application for a passport of date _____, are true; and I do hereby consent that this statement shall, in all respects, be held and treated as if I had personally executed such application before a consul of the United States.

Witness:

Form of travel certificate to be issued to the possessor of a passport.

No. ____.

I, _____, consul of the United States of America at _____, having received an application from _____, a citizen of the United States, for a passport to travel in the province of _____, have, under the provisions of the Tien-Tsin treaty, issued this pass, and have to request that the Chinese authorities, civil and military, on examining it, will allow Mr. _____ safely and freely to pass, and, in case of need, to give him all lawful aid and protection.

Given under my hand and the impression of the seal of the consulate of the United States at _____ this _____ day of _____, 189 .

Good for 1 year.

[SEAL.]

Consul.

Form of travel certificate to be issued to an applicant for a passport.

No. ____.

I, _____, consul of the United States of America at _____, having received an application from _____, a citizen of the United States, for a passport to travel from _____, by way of _____, to _____ [and return], have, under the provisions of the Tien-Tsin treaty, issued this pass, and have to request that the Chinese authorities, civil and military, on examining it, will allow Mr. _____ safely and freely to pass, and, in case of need, to give him all lawful aid and protection.

Given under my hand and the impression of the seal of the consulate of the United States at _____ this _____ day of _____, 189 .

Good only for one journey, and not longer than 1 year.

[SEAL.]

Consul.

Mr. Denby to Mr. Blaine.

No. 1114.]

LEGATION OF THE UNITED STATES,
Peking, May 10, 1890. (Received June 20.)

SIR: I have the honor to inclose herewith a copy of a note from the foreign office, received at this legation yesterday. As you will see, the discussion of the limitation of the duration of transit passes has been directly induced by the presentation of a transit pass issued 12 years since at Tien-Tsin, the pass proving good by the insistence of Her Britannic Majesty's consul (Bullock) at that port. He claimed, *correctly*,

that Tien-Tsin was not included among those ports where transit passes were issued with any fixed limit for expiration.

The native authorities are now urgent in their desires and measures to place a limit of time on such passes at this port, and such other ports not already included, with a view of preventing any recurrence of irregularities. I also inclose a copy of a note from His Excellency the German minister, which will explain an excellent suggestion to his colleagues and to the foreign office that these limitations be determined and arrived at by the Chinese authorities with the consuls, not confining such deliberations to the customs taotais and commissioners to the exclusion of the consuls.

I have, etc.,

CHARLES DENBY.

[Inclosure No. 1 in No. 1114.—Translation.]

The Trung-li-yamén to Mr. Denby.

No. 4.]

MAY 10, 1890.

YOUR EXCELLENCY: With reference to the transit memoranda in triplicate issued for the exportation of native produce, the inspector-general of customs proposed, in the eleventh year of Tung Chih (1873) a limit of time within which they should be delivered for cancellation. This limit was for the province in which the pass was issued, 50 days; for adjoining provinces, 100 days; for distant provinces, 200 days. To exceed the limit constituted a violation of the customs regulations, entailing confiscation of all the goods.

In the eleventh moon of that year (1873), and again in the eleventh moon of the second Kuang-hsi (January, 1877), this yamén communicated these proposals for the information of the representatives of the various countries resident at Peking, from whom, one after the other, replies were received agreeing that they should be adopted.

At various subsequent dates, viz, in the eighth moon of the third Kuang-hsi (1877) first and second moons fifth Kuang-hsi (1879), ninth moon seventh Kuang-hsi (1881), the yamén received dispatches from the southern superintendent of trade and the governor-general of the Liang-Kuang, stating that they were in receipt of reports from Ching-Kiang, Wuhu, Pakhoi Kiung-Chow, and Canton, stating that the customs taotais, together with the consuls, the commissioners of customs, and the inspector-general of customs, had decided upon limits which would govern transit passes for native goods. At Ching-Kiang and Wuhu the limit was put at half a year; at Pakhoi, 6 months; at Kiung-Chow, 3 months; and at Canton, for the province of Canton itself, 3 months, and for going beyond the province 6 months. Penalties for exceeding the allotted time were to be exacted in accordance with the regulations. This system of limits once in operation was found satisfactory to the mercantile community generally, and, though long in operation, no irregularities were discovered. We have now, however, received from the northern superintendent of trade a dispatch stating that on the twelfth day second intercalary moon of the sixteenth Kuang-hsi (April 1, 1890) a boatman, Chang Yu-te, having as cargo 116 packages of wool, arrived at the Hung Ch'iao (Red Bridge) subordinate customs station and tendered for examination a pass in triplicate, Tien-Tsin, No. 178, originally issued to the English firm of (Wilson & Co.) Hsin Tai Hsing, authorizing the purchase of native goods at Tulu Hsien (a village southwest of Tien-Tsin). Investigation showed that it had been issued on the twelfth day of the fifth moon of the fourth Kuang-hsi (June, 1878); that it was 12 years old. Fraud having been suspected, the customs taotai submitted the man to an oral examination. While conducting the examination, however, he received a note from Consul Bullock requesting that the man be released. No limits for the expiration of these passes having ever been established at Tien-Tsin, the customs taotai yielded to the request and discharged the boatman. He wrote at once to the consul, however, urging that deliberations be entered into with a view to the establishment of definite limits for transit passes at Tien-Tsin in accordance with the procedure at other ports, which limits, once agreed upon, would prevent the recurrence of such irregularities hereafter.

The superintendent of trade, having received this report, requests that this case be definitely decided, and that the yamén communicate the matter to all the representatives of the foreign countries resident at Peking. We have replied to the superintendent of trade to transmit orders to the said customs taotai to come to some satisfactory arrangement of the present case with the consul, and we have also written

to the northern and southern superintendents of trade to direct the inspector-general of customs to ascertain what ports have no established limits for duration of transit passes, and to order the customs taotais and the commissioners of customs at such places, taking into consideration the particular circumstances of each locality, to establish limits for duration of transit passes in accordance with regulations, making a distinction for time allowed in nearer and remoter places. Should a merchant have any real causes for delay, he may, before the expiration of the limited time, make application for an extension in accordance with the rules. This will be granted as a favor to him. We communicate this matter for Your Excellency's information, and we hope you will order the consuls at the various ports concerned to act in accordance with the spirit of this dispatch.

Thus we hope frauds and irregularities will be avoided, and that mercantile affairs will more and more favorably progress with lapse of time.

Confident of Your Excellency's cordial good will in the transaction of business with us, we are sure to receive as early as possible a reply from you.

A necessary communication, etc.

[Inclosure 2 in No. 1114.]

The German minister to his colleagues.

PEKING, May 9, 1890.

Mr. von Brandt has the honor to present his compliments to his colleagues and to place the following proposals before them:

In the yamèn's note of the 9th instant on the subject of the fixation of the duration of the export transit passes, the yamèn states that the taotais or commissioners of customs at those ports where such measures had not yet been introduced would be instructed to fix a time they thought adequate.

In the same note it is, however, mentioned that at Ching-Kiang, Wuhu, Pakhoi, Kiung-Chow, and Canton similar measures had been introduced after an understanding had been arrived at between the Chinese authorities and the treaty powers. Would it not be well under the circumstances to tell the yamèn that, while approving the principle of the measure proposed, the foreign representatives thought that if it were based, as in the former cases quoted by the yamèn, upon a joint understanding between the Chinese authorities and the consuls, the interests of the customs, as well as of the mercantile community, would be best protected and future reclamations and difficulties avoided?

If his colleagues should approve of this proposal, each legation might draft its answer in the same sense.

Mr. von Brandt avails, etc.

Mr. Blaine to Mr. Denby.

No. 530.]

DEPARTMENT OF STATE,

Washington, May 17, 1890.

SIR: Referring to your No. 1068 of the 18th of March last, I transmit a copy of a letter from the Secretary of the Treasury concurring in the view that the certificate of the taotai, properly viséed by the minister or consul of the United States, would be sufficient to authorize the collector of customs at the United States port where Mr. Howe, the Chinese subject whose case you present, arrives to permit his landing.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 530.]

Mr. Batcheller to Mr. Blaine.

TREASURY DEPARTMENT,
May 14, 1890. (Received May 15.)

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant transmitting a copy of dispatch No. 1068, dated the 18th of March last, from the United States minister at Peking, relative to the application of Mr. Alvin F. Howe, a Chinese subject, for advice as to the mode by which he can gain access to the United States.

The minister states that Mr. Howe is a Christian, a physician by profession, and also an employé of the Methodist mission at Peking; that he desires to complete his medical studies in the United States under the patronage of the Methodist Board of Missions; and that he speaks English very well, and is, in all respects, reputable.

The question as suggested by the minister is whether the certificate of the Chinese Government, specified in section 6 of the act of July 5, 1884 (23 Stat. at Large, p. 116), without which a Chinese person other than a laborer can not enter the United States, can be issued by a dependent authority or local officer such as a "taotai," who represents, it is understood, the Chinese Government as chief magistrate in the district where the applicant resides, and is in a position to certify the facts satisfactorily.

It is understood that the minister is inclined to the view that such a certificate would be satisfactory, and would substantially conform to the requirements of law on the presumption that the local officer has full authority from the Chinese Government to take action in such matters.

Upon this presumption, and in view of the difficulty and almost impracticability of obtaining such certificate from the principal Government of China, I concur with you in the opinion that the certificate of said local officer, or "taotai," properly viséed by the minister or other consular representative of the United States in China, would be sufficient in law to authorize the collector of customs at the port of arrival in the United States of Mr. Howe to permit him to land.

Respectfully, etc.,

GEO. S. BATCHELLER,
Acting Secretary.

Mr. Blaine to Mr. Denby.

No. 542.]

DEPARTMENT OF STATE,
Washington, June 25, 1890.

SIR: I have received your No. 1113 of the 5th ultimo, relative to the claim of the American citizen Louis McCaslin against China for injuries caused by the wrongful closing of a bridge of boats at Ningpo, April 29, 1888. Your note in the case of the 5th ultimo is approved.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Denby.

No. 544.]

DEPARTMENT OF STATE,
Washington, June 27, 1890.

SIR: I have received your No. 1114 of the 10th ultimo, in relation to a note from the yamén of the previous day, on the subject of "the fixation of the duration of export transit passes."

The suggestion in Mr. von Brandt's memorandum, of which you inclose a copy, that the period of validity of transit passes in the several districts and treaty ports of China be determined by mutual agreement between the authorities and the consular representatives of the treaty powers, appears to be proper and necessary.

I am, etc.,

JAMES G. BLAINE.

Mr. Denby to Mr. Blaine.

No. 1123.]

LEGATION OF THE UNITED STATES,
Peking, July 25, 1890. (Received September 22.)

SIR: I have the honor to inclose a translation of a communication bearing date June 16, 1890, lately sent to me by the Tsung-li yamén; also a translation of another communication bearing date June 17,

1890; also copies of my replies to these two communications. The delay in forwarding these papers was caused by my absence from Peking. It will be seen that the first of these communications relates mainly to the act of October, 1888, being the Chinese exclusion act, and that it recites that substantially similar inquiries were made by the Chinese minister at Washington of yourself and of your predecessor. While it must be admitted that under the fourth article of the treaty of 1880 it is entirely competent for the yamèn to address complaints to me touching any legislative act, nevertheless, under the circumstances, it seemed prudent for me not to take up the proposed discussion until I had presented the matter to you and received your instructions. I answered the yamèn in that sense. The communication of June 17 is mostly directed against the lately proposed Chinese enumeration bill and the San Francisco ordinance which has for its purpose to confine Chinese residents to certain designated localities. I have replied to the yamèn that my information was that the enumeration bill had been laid on the table in the Senate, and that the ordinance mentioned would be tested in the courts before any action would be had under it. It seemed to me unnecessary to discuss at this time the provisions of either measure.

This conduct is in accordance with the treaty, which applies only to measures "as effected."

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1123.—Translation.]

The Tsung-li-yamèn to Mr. Denby.

JUNE 16, 1890.

YOUR EXCELLENCY: Research reveals the fact that all the treaties entered into between China and the United States, beginning with that of the twenty-fourth Tao Kuang (1814, western style); then that of the eighth Hsien Teng (1853); that of the seventh Tieng Chit (1868), and that of the sixth Kuang-hsü (1880), four in all, originated on the part of the United States. Further, the proposed treaty, the draft whereof was jointly discussed by us in the year Kuang-hsü (1888), was also put forward by the Department of State under the last Administration, the original idea not coming from China. Notwithstanding this, His Excellency, the former President, set this treaty aside, and without premonition put in operation a new statute absolutely prohibiting the coming of Chinese laborers into the United States, a statute widely at variance with the Chinese-American treaty of the seventh Tung Chit (1868), and a violation of the treaty of the sixth Kuang-hsü, wherein China authorized the restriction by the United States of the immigration of Chinese laborers. The fifth article of the treaty entered into between China and the United States in the seventh year of Tung Chit (1868) speaks of the mutual advantage of the free migration and emigration of their citizens and subjects, respectively, from the one country to the other, for the purposes of curiosity, of trade, or as permanent residents. The sixth article further says, * * * "Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most 'favored nation.'" Again, the treaty of Kuang-hsü (1880) between China and the United States says that whenever the coming of Chinese laborers to the United States, or their residence therein, affects or threatens to affect, the interests of that country, or to endanger the good order of any locality within the territory thereof, the Government of China agrees that the Government of the United States may regulate, limit, or suspend such coming or residence, but may not absolutely prohibit it. The limitation or suspension shall be reasonable. Under these circumstances, the ratification by His Excellency the former President, on the 26th day of the eighth moon last year (western style, the 1st of October), of the statute enacted by Congress prohibiting immigration of Chinese laborers is beyond belief. Further, this yamèn had previously, viz, on the 15th day of the eighth moon of that year (September 19), sent a dispatch to Your Excellency submitting for your consider-

ation three additional clauses to the new treaty. To this, however, Your Excellency has never replied. The Chinese minister to the United States also submitted these three clauses in a dispatch to the Department of State. He, too, received not a word in reply. The new treaty, however, was rejected and a new statute was enacted in place of it. This method of dealing does not seem to us to agree with the spirit which animates the treaties of our two countries, and fails to accord with the several decades of friendship between us. Since the enacting of this new law Chinese going to and from the United States have all met with interference. His Excellency Mr. Chang, former minister to the United States, first on the 25th day of the twelfth moon of the fourteenth Kuang-hsi (January 26, 1889), later on the 26th of the first moon of the fifteenth Kuang-hsi (February 22, 1889), wrote to the former Secretary of State on this subject. In reply to these dispatches he received an answer from the Honorable Secretary, in which he merely intimated that as the President was about to go out of office he certainly would not ratify any legislation enacted in violation of treaty. He did not reply to any of the other important matters submitted to him.

After Mr. Blaine had entered on his duties as Secretary of State the former minister, Mr. Chang, on the 10th day of the sixth moon, fifteenth Kuang-hsi (July 7, 1889), wrote a dispatch making urgent inquiries for information and demanding that the law enacted by Congress the preceding year, prohibiting Chinese laborers from entering the United States, be repealed.

These communications were exceedingly explicit in their statement of the case.

In reply, however, the Department merely stated that haste would be made in a careful consideration of the subject. As to the manner in which this consideration has been conducted, no information has as yet been given. This yanèn observes that the Chinese minister, in his three dispatches above referred to, has, in the main, substantiated his position by quotation from the successive treaties between the United States and China. Now, by reference to the Foreign Relations of the United States, 1881, pp. 173, 185, and 198; and to the statutes of the United States, March 1843, 5th chapter, p. 624; and to the Foreign Relations of the United States of 1870, p. 332; and to the Congressional Record, 1888, 19th chapter, pp., 8451, 8452, 8453; and to the message of President Hayes, March 1, 1879, to the Forty-fifth Congress, vetoing a bill; and to the message to Congress of President Arthur, April 4, 1882—by reference to these various documents kept on record by the United States Government, referring to statutes and matters with which Your Excellency is well acquainted, it may be easily ascertained why the Department of State persistently refused to give definite answers. Sincerely interested, as Your Excellency is, in the relation of our countries, you probably are aware that the law now in operation, contrary to treaty stipulations, interferes with Chinese subjects in their efforts to gain a livelihood, as well as violates the several treaties themselves. Last year at the opening of Congress His Excellency the President, in his message to that body, stated that the failure to ratify and exchange the new treaty negotiated between China and the United States, and the legislation of the last session of Congress consequent thereto, had left some questions open, to the deliberation of which it was now his duty to request Congress to approach with justice and equity, etc.

This yanèn has not heard from Your Excellency whether or not during these months any such deliberations have been entered into by the Congress of your country.

His Excellency Mr. Tsui, our present minister, has frequently written to the Department on the subject, but receives no replies. We request, finally, that Your Excellency will clearly indicate to us what article of the treaty it is that your honorable Congress relied on in enacting the new law of last year. Should statutes be enacted without adherence to the treaties, then the Chinese residents in the United States must, in time to come, suffer varied and repeated hardships. This result, we fear, can not be avoided. The Chinese have gone to America because repeated treaties have authorized them to go and come at their pleasure, and to enjoy there the advantages of citizens of the most favored nation. For this reason the residents on the coasts of China have gone to the United States in large numbers to gain their subsistence. There they have accumulated considerable property. Now that suddenly their going to and fro is prohibited, to whose charge shall be given their homes and property in America? The new law enacted by Congress is totally at variance with the treaties, and we consider it a violation of the spirit which prompted your country in its repeated requests to China to execute treaties with it. It forms an entirely new episode in the relations of the two countries, and, though there was a disagreement with France in 1798, the instance is one which is seldom met with in the history of the United States with other countries.

Your Excellency is thoroughly conversant with the treaties between China and the United States; we therefore request you at once to write to the Department of State to secure the repeal of the laws in violation thereof. We hope, also, to receive an answer in this important matter.

A necessary communication, etc.

[Inclosure 2 in No. 1123.—Translation.]

The Tsung-li-yamen to Mr. Denby.

JUNE 17, 1890.

YOUR EXCELLENCY: It is customary to speak of the relations between China and the United States as characterized by continuous cordiality. The treaties which China has on various occasions entered into with the United States have all been animated with the intention to protect the interests of American citizens. The United States, however, because of discrimination against Chinese laborers, have repeatedly enacted laws in violation of treaty, and all having for their object the maltreatment and injury of Chinese subjects. We have lately received from His Excellency Mr. Tsui, minister to the United States, a communication, wherein he says that the Lower House of the United States Congress has had under discussion recently the enacting of a vexatious law requiring the enumeration of the Chinese in the United States, in California; moreover, a statute has been recently enacted driving out and expelling the Chinese from the larger cities. On reading this, very great was our indignation and grief. The second article of the supplementary treaty between China and the United States of the sixth Kuang-hsü (1860) says that Chinese merchants "and Chinese laborers who are now in the United States shall be allowed to go and come of their own free will and accorded all the rights, privileges, immunities, and exemptions which are accorded to citizens and subjects of the most favored nation." Article III says: "If Chinese laborers or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill treatment at the hands of any other persons, the Government of the United States will exert all its power to devise measures for their protection and secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty." The vexatious law for the enumeration of the Chinese seems to be not only a contradiction of the "favored-nation" clause in the successive treaties between China and the United States, but a violation of the Constitution on which your Government is built. In the law for the driving out and expulsion of the Chinese and the limitation of their residence hereafter to a particular locality no inquiry has been made as to whether they had property or not. They are all alike to be forced into one narrow place and not allowed the usual privileges of residence. After 60 days those not driven out shall be ordered to prison. We do not know whether the Chinese now residing in the United States are all those who in former times went thither under the treaty which your Government entered into with China in order to authorize their going. Their strength, however, was availed of and their labor used. Afterward, as soon as the railroad had pierced through to California, and when business flourished, the virtues of the Chinese were no longer remembered, and they were regarded as enemies. At first hostility arose, then there was burning of houses, then there was expulsion of Chinese; now they are to be forced to live in one locality and be allowed no residence elsewhere. It seems that they are to be gathered together to inflict further injuries on them. This is a contradiction of those words of the treaty which say they may "go and come of their own free will and accord," while the proposed imprisonment after 60 days is a nullification of that treaty clause which speaks of enjoying the advantages of the subjects of the "most favored nation." Should such acts as these originate with the citizens or subjects of another country, should they so insult and ill treat the Chinese laborers, the Government of your honored country would be in duty bound to "exert all its power to devise measures for their protection," and thus fulfill its treaty obligation. Now, however, contrary to all our expectations, these oppressions and these insults come from the United States, whose relations with us it is customary to designate as cordial. We are humbly of opinion that in the law of nations reciprocity is considered most important. Suppose that China should conduct herself towards American citizens in a similar manner, we ask whether the Congress of the United States would not reproach China with a violation of the treaty? And would Your Excellency sit still and make no inquiries of us? Change your point of observation. At this time China can not refrain from expressing her feelings, and it is just that she should do so. The whole truth is that this class of Chinese laborers, although living beyond the outer seas, are not the less the children of China, and she is unable to cast them from her breast. It is our duty, therefore, to communicate with Your Excellency and to express the hope that you will write to the Department of State to abrogate the laws requiring enumeration and forced restriction of residence. We hope for an early reply. We further wish that you would transmit to the Department of State a request to speedily reply to the dispatch of last year from His Excellency Mr. Tsui, the present minister, sent during the second intercalary month, and that of the former minister, Mr. Chang, and thus show some concern for the important matter of the good relations of our countries.

A necessary communication, etc.

[Inclosure 3 in No. 1123.]

Mr. Denby to the Tsung-li-yamen.

No. 7.]

LEGATION OF THE UNITED STATES,
Peking, July 26, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your communication of June 16, 1890. I seize the earliest opportunity after my return to Peking to reply to the same.

You set out in detail the dates of the treaties and make some observations on their origin. You proceed to comment on the act of Congress of October, 1883, relating to the exclusion of the Chinese laborers, which act you severely criticise. You further state that I sent no reply to your communication of the 15th day of the eighth moon of the fourteenth year of Kuang-hsi (September 20, 1887). I beg leave to say that I acknowledged the receipt of your communication. I forwarded it to my Government. I have received no advices from my Government touching the three suggestions made. You further state that you have addressed, through your minister at Washington, the present Secretary of State and his predecessor on this subject and are without a reply. You cite various documents and Presidential messages. You then make some comments on the alleged injustice of the act of Congress of which you complain, and you request that I take up this discussion with you, and that I clearly indicate to you what article in the treaty it is that Congress "relies on in enacting the new law of 1888." You proceed to detail the alleged hardships to which Chinese subjects will be subjected by the operation of the new statute, and you severely criticise the said statute. You request me, in conclusion, to write the Secretary of State to secure the repeal of the said law.

In reply to this communication, I have to say that I have sent to the Department of State a translation of your communication.

I think that under the circumstances detailed by you it is best for me to await the instructions of my Government before taking up the discussion of the matters stated. I must therefore beg of you to await a more specific reply to your communication until I shall have received the instruction of the Honorable Secretary of State.

I avail, etc.,

CHARLES DENBY.

[Inclosure 4 in No. 1123.]

Mr. Denby to the Tsung-li-yamen.

No. 8.]

LEGATION OF THE UNITED STATES,
Peking, July 26, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of the communication of Your Highness and Your Excellencies of June 17, 1890.

I seize the earliest opportunity after my return to Peking to reply to it. You therein state that the United States "have repeatedly enacted laws in violation of treaty, and all having for their object the maltreatment and injury of Chinese subjects." Under the treaty of 1880 it is competent for the Government of China to bring the attention of the Government of the United States or that of the minister to China to the consideration of any legislative measure which may be found to work hardships upon the subjects of China.

As I understand this provision, it is applicable to laws that have been enacted by Congress and have received the sanction of the Executive, or been passed over his veto in accordance with the Constitution, and that have become valid and are in force. A complaint made in the general addressed to newly proposed laws which are not in force would require much time for discussion, and such time might be uselessly expended. You state that you have been informed by your minister at Washington that the Lower House of Congress has had under discussion recently the enacting of a vexatious law requiring the enumeration of the Chinese in the United States. You have probably been informed by your minister before this time that the said bill failed in the Senate, was laid on the tables, and will in all human probability not become a law. It is unnecessary to waste any time in the discussion of this measure.

You refer, also, to the ordinance lately passed by the city of San Francisco. That city passed an ordinance by which the residence of Chinese subjects was restricted to certain designated localities. If this ordinance be antagonistic to the treaties, as Your Highness and Your Excellencies claim, then it will be set aside by the courts and held to be naught and void. Under our system of government it is not competent

for any State or city to enact laws contrary to the provisions of existing treaties. I have not learned that the Chinese consul or the Chinese residents of San Francisco are much alarmed at the passage of the ordinance in question. Until the courts shall have decided that the said ordinance is legal and binding, and some action that is prejudicial to the Chinese has been had thereunder, it would seem to be unnecessary to discuss its provisions.

I have sent to the Secretary of State a translation of your communication, and I am sure that it will secure the attention that its importance warrants.

I avail, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1125.]

LEGATION OF THE UNITED STATES,
Peking, July 26, 1890. (Received September 22.)

SIR: I have the honor to inform you that I have communicated to the Presbyterian mission at Chi-nan-fu the substance of your dispatch No. 512 of April 9, 1890, in a letter of which a copy is herewith inclosed. As soon as I learn from the superintendent of the mission what the present condition of things is, and what are his wishes, I will again bring the subject to the attention of the foreign office.

I would be very much gratified if I could secure for the mission the original lot for which they contracted or another suitable lot in exchange therefor.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1125.]

Mr. Denby to Mr. Reid.

LEGATION OF THE UNITED STATES,
Peking, July 25, 1890.

SIR: Upon my return to Peking after a long absence, I find a dispatch from the Department of date April 12, which contains this language:

"Popular prejudice at Chi-nan-fu appears to render it impracticable for Mr. Reid to pursue further his claim upon his contract for the original suburban lot, but the claim that another house lot in another part of the suburbs should be procured in lieu of the original lot ought not to be lightly foregone if there seems to be any chance of its being successfully maintained without friction or unpleasant complications. Your own suggestion, however, that the missionaries surrender the deed of the original lot, recover the purchase money, and undertake to secure another such lot as a movement entirely new and independent of the original contract, is deemed preferable, as being in all probability the least open to objection by the local authorities: and provided, of course, the missionaries can be induced to accept that solution of the difficulty before any attempt is made to obtain an exchange at the hands of the yamèn; and provided, further, that assurance can be obtained before surrender of the old lot that no impediment will be thrown in the way of the acquisition of a new one of equivalent value."

I have heard rumors touching the condition of things at Chi-nan-fu, but have nothing definite. You will see that the Department instructions are contingent upon the mission's acceptance of the plan proposed. Should the mission decline to accept the new lot and still insist on the possession of the first lot, then I am directed to bring the views of the mission and yours (mine) on this subject into harmony, in order that you (I) may proceed to a just termination of the existing differences between the mission and the authorities. Before taking any action here I desire to know the mission's views as to the course to be adopted, and to receive such information as to the present condition of things as may facilitate a favorable solution. Backed up, as I am, by my Government, I shall not hesitate to present to the yamèn in the strongest manner the claims of the mission to a just settlement of the troubles pending.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1125 bis.]

LEGATION OF THE UNITED STATES,
Peking, July 26, 1890. (Received September 22.)

SIR: I have the honor to inform you that in the matter of Louis McCaslin I have sent to the yamén the communication of which a copy is herewith inclosed.

I have also sent to the yamén a translation of your dispatch No. 517 of April 18, 1890. The matter is so lucidly and completely presented by this dispatch and by No. 510 of March 24, 1890, that I was unable to add anything substantial to them. I will, however, seek the earliest moment to have an oral interview with the yamén, and will then carry out your instructions contained in the last clause of your dispatch No. 517. At present, owing to the great rains, of which you have been advised by my dispatch No. 1124 of the 25th instant, the streets of Peking are not passable. It is necessary for me, also, to go to the hills for a few days, if I can get there, which is doubtful, to see my family, whom I have not seen for 2 months, and who have just returned to China after an absence of 2 years.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1125 bis.]

Mr. Denby to the Tsung-li yamén.

LEGATION OF THE UNITED STATES.
Peking, ———, 18—.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inform Your Highness and Your Excellencies that I have received from my Government a dispatch relating to the McCaslin case at Ningpo. I was directed to deliver to Your Highness and Your Excellencies a translation of the said dispatch, which I now have the honor to do.

"I have to acknowledge the receipt of your No. 1049 of February 9 last, etc." (quoting Department's No. 517 entirely through).

In this connection, I have to refer Your Highness and Your Excellencies to my previous communications touching the McCaslin case. The subject has been therein so fully presented that I am unable to add anything substantial to the arguments in favor of setting aside the judgment of the taotai and granting a rehearing of the case. The matter, however, is so clearly and strongly presented by the Honorable Secretary of State that I deem it unnecessary to add any comments. I will have the honor to call in person upon Your Highness and Your Excellencies and present this and other questions for your consideration orally as soon as the streets of Peking are passable.

Mr. Denby to Mr. Blaine.

No. 1140.]

LEGATION OF THE UNITED STATES,
Peking, August 4, 1890. (Received September 22.)

SIR: I have the honor to inform you that I have sent to the foreign office the communication of which a copy is inclosed.

The question arose, in the case of a French man-of-war which had engaged in surveying and sounding one of the closed ports, whether it was allowable for foreign officers to make such surveys. The foreign ministers, after a discussion, unanimously held that this was a treaty right. The question was presented to the yamén during my absence, and I had only to approve the conduct of my colleagues. While it is

to be supposed that the great maritime countries of Europe might prohibit such surveys, still the case is, or ought to be, different with China. She has absolutely neglected hydrographic work, perhaps for the good reason that she had no scientific officers. She has stood by and seen the foreigner sound and make charts for all her coasts. There seems to be no good reason why she should now object to a completion of the work. It happens that we are the only nation that has a treaty which by just intendment may be held to include this subject.

The ninth article of the treaty of June 18, 1858, reads as follows :

Whenever national vessels of the United States of America, in cruising along the coast and among the ports opened for trade for the protection of the commerce of their country, *or for the advancement of science*, shall arrive at or near *any of the ports* of China, the commanders of said ships and the superior local authorities of government shall, if it be necessary, hold intercourse on terms of equality and courtesy in token of the friendly relations of their respective nations ; and the said vessels shall enjoy all suitable facilities on the part of the Chinese Government in procuring provisions or other supplies and making necessary repairs.

The last clause of this article provides that our national vessels may "pursue pirates, and, if captured, deliver them over for trial and punishment."

There have been several examples of such work being done by American ships, notably that of the *Wyoming* in 1862 or 1863. Unless the ports shall have been sounded and surveyed, such pursuit in many cases would be impracticable. It seems to me very clear that in the interest of humanity and of commerce this right should be insisted on.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1140.]

Mr. Denby to the Tsung-li yamen.

AUGUST 4, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES : I have the honor to inform Your Highness and Your Excellencies that since my return to Peking I have learned that my colleagues have addressed Your Highness and Your Excellencies on the subject of permitting officers on board men-of-war to make surveys of the various ports of China.

I take this opportunity of saying that I cordially approve of the course of my colleagues. I have made four voyages on the coast of China and have just returned from one on which I traveled over 4,000 miles. Every few feet of this coast has been sounded, and accurate charts have been prepared by the officers attached to the ships of various nationalities. The value of such services to humanity and to trade and commerce can not be overestimated. These charts, together with the splendid system of light-houses and buoys organized by the inspector-general of the imperial maritime customs, have made the very dangerous coast of China easy and safe for navigation. But it will always happen that in stress of weather or on account of accidents ships will be compelled to take refuge in ports. The treaties provide that such refuge may be had. How can a ship enter a port safely which has never been surveyed or charted ? The open sea, in such event, might be less dangerous than an unknown port. China has hitherto failed to do this necessary work herself. She should not, therefore, object to its being done by other nations. I call Your Highness's and your Excellencies' attention finally to the ninth article of the treaty of June 18, 1858, made between the United States and China, wherein it is distinctly provided that the vessels of the United States may visit any of the ports of China. The last clause provides that the national vessels of the United States may pursue and capture pirates. There have been several cases of the pursuit and capture of pirates by American ships. How can this work, which is thus distinctly specified, be done unless the various ports are properly sounded and surveyed in advance ? In the interest of humanity, as well as of commerce, Chinese and foreign, I hope that Your Highness and Your Excellencies will see your way clear to the approval of the right of foreign scientific officers to continue and complete the hydrography of all the ports of China.

Mr. Denby to Mr. Blaine.

No. 1146.]

LEGATION OF THE UNITED STATES,
Peking, August 11, 1890. (Received September 22.)

SIR: I have the honor to inform you that since I sent to you my dispatch No. 1125 of the 26th of July, relating to the Chi-nan-fu troubles, I have received a communication from the American mission at that place which furnished me the information I desired. This communication was sent in advance of the receipt of the one sent to the mission by me.

I have accordingly addressed to the foreign office a communication, of which I inclose a copy.

It will be seen that I strongly urge a full and final settlement of these long-standing troubles.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1146.]

Mr. Denby to the Tsung-li yamen.

No. —.]

—, —, 1890.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES: I am constrained by my high respect for the Government of China, as by the orders of my own Government, to bring to your attention again the troubles existing at Chi-nan-fu between the American missionaries located there and the local officials. It is known to Your Highness and Your Excellencies that the American missionaries several years ago bought and paid for a small lot in Chi-nan-fu to be used for a dispensary and other purposes connected with their charitable and philanthropic work. They did this with the firm belief that their conduct was authorized by the treaties and by the universal practice of religious toleration which exists in China, under which the Roman Catholic and Protestant missionaries are permanently located in all or nearly all the nineteen provinces of this great Empire.

When they made the purchase of this city lot, they understood that no objection to its acquisition would be made by the local authorities or the people. The owner sold in good faith, and they bought in entire innocence of doing anything contrary to the wishes either of the local authorities or the people. But dreadful results have followed this simple act. Mr. Reid, when he went to take possession of the lot, was driven out by a mob and beaten and bruised and left insensible on the ground.

From that day to this, more than 2 years ago, no redress has been tendered to Mr. Reid, no apology has been made to him, no indemnity has been offered to him. His case has been simply ignored and passed over.

I am now informed of the horrible sequel to these events which has befallen the innocent landlord. The mission writes to me that "the landlord, though guilty of no crime, has been repeatedly imprisoned, beaten, and starved, and lately there was extorted from him \$250, with a peremptory order that he speedily collect an additional \$350. A few weeks ago he was taken out of prison in a weakened condition and after a day or two of further suffering died at his home, his death being largely due to his sufferings in the yamen."

This is horrible, and I am stirred with wonder that such things should happen under the mild and paternal Government of China. I can understand that sudden mobs will sometimes do violent acts in a country so densely populated as China, but I can not understand how local officials worthy of their places can lend themselves to such wanton cruelty and oppression.

I am aware that a valuable tract of land outside of the city walls has, with the consent of the local officials, passed over to the American mission. For this kindness I am truly grateful. But the missionaries represent that for the proper prosecution of their work they require a small city lot, either in the city proper or in the suburbs. My Government has distinctly and specifically, on representation of the facts by myself and the mission, directed me to aid and assist the missionaries in all proper modes to secure peaceable possession of a lot in exchange for the lot already bought.

The American mission are entirely willing to arrange all their difficulties amicably with the local authorities. They distinctly agree to forego all claim to the original lot and to accept at the hands of the local authorities another suitable lot in a dif-

ferent locality in lieu thereof. They insist, however, that this exchange of property shall be made with the full knowledge of all concerned, with the distinct pledge that their possession of the new lot shall be peaceable, and that, should for any reason disorder grow out of their taking possession of it, they shall be fully and entirely protected by the local authorities.

I regard it as important, also, in order to secure future protection of the missionaries, that some notice should be taken of the wrongs and injuries done to Mr. Reid by the mob and some compensation tendered to him. I have to ask that some punishment should be meted out to the ringleaders of the mob which assaulted him, and that redress of some kind be afforded to Mr. Reid.

It would seem to me to be the easiest thing in the world for Your Highness and Your Excellencies to direct the local authorities to come to a fair and equitable agreement by which the American mission may secure another and different small lot in Chi-nan fu or its suburbs, to be used for the public purposes of the mission.

There can be no difficulty in making a public example of the ringleaders of the riot in which Mr. Reid was injured and in tendering to him some redress for his personal injuries.

What he wants and what the mission wants is to secure their present and future safety in Chi-nan-fu, to reestablish their destroyed prestige, and to enable the members of their mission to retain their self-respect, so that they can hereafter, as heretofore, boldly and efficiently devote themselves to their charitable and philanthropic work.

What a grand thing it would be for Your Highness and Your Excellencies if we could settle this ancient trouble. What a fine effect it would have on all the foreigners in China and among the nations of the world, and particularly in my own country.

I most earnestly beg that Your Highness and Your Excellencies will hearken to these words and will order an immediate settlement to be made on the lines indicated.

Mr. Wharton to Mr. Denby.

No. 553.]

DEPARTMENT OF STATE,

Washington, September 24, 1890.

SIR: I have to acknowledge the receipt of your No. 1123 of the 25th of July last and the copy of the correspondence which you inclosed with the Tsung-li yamên regarding the Chinese in the United States.

The argument which you made in reply to the representations of the Chinese Government touching the San Francisco ordinance directed to the segregation of the Chinese there is in accord with the views expressed by the Department in its correspondence with the Chinese legation in this city, and is therefore approved.

The Department will give further consideration to the other matters mentioned in the notes of the Tsung-li yamên, which matters you properly declined to discuss in the absence of instructions.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Denby.

No. 556.]

DEPARTMENT OF STATE,

Washington, September 25, 1890.

SIR: I have read your No. 1140 of the 4th ultimo, and approve the terms of your note of that date to the foreign office, in which you express a hope that the Chinese Government will see its way clear to permit foreign scientific officers to continue and complete the hydrography of the ports of China.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Denby to Mr. Blaine.

No. 1150.]

LEGATION OF THE UNITED STATES,
Peking, August 16, 1890. (Received October 6.)

SIR: I deem it proper to report to you my recent action on a question of the mode of solemnizing marriages in China between Americans there resident.

In the case in hand the contracting parties were Dr. B. C. Atterbury and Miss M. T. Lowrie, both citizens of the State of New York and now residents of Peking engaged in mission work.

It was supposed by Dr. Atterbury that my presence was all that was necessary to give "legality," as he said, to the proposed marriage. Under article 387 of the Consular Regulations, I deemed it my duty to say to him that my presence at the ceremony would have no legal effect. I showed to him that under article 389, Consular Regulations, the minister is not authorized to perform the ceremony, or to witness it officially, and under article 390 he could give no certificate whatever. I pointed out that under article 386, Consular Regulations, a consul might perform the ceremony, or it might be performed in his presence, and he could then issue the certificate that the Consular Regulations provide for.

As a result of this friendly and nonofficial interview, the wedding was postponed, and the parties journeyed to Tien-Tsin, to be there married by or before the consul.

My action provoked some comment. Several cases have occurred in China wherein the parties were married by a clergyman with no Government official present. Other cases were cited in which one of my predecessors attended marriages that were thus solemnized. It is on this account, and because marriage questions are of the highest importance, that I bring the matter to your consideration. It seems plain to me that as a wise precaution, and in order to avoid any possible future trouble, marriages between Americans in China should be performed in the presence of the nearest consul.

While entertaining this view, I do not pretend to say that the courts might not hold a marriage valid when the ceremony had been performed by a clergyman, or even in cases where there was no ceremony at all, if cohabitation and public recognition of the conjugal status existed; nor do I pretend that I have any official right to dictate to parties how they shall be married; but the minister must be careful that parties are not misled by his silence or his presence at the ceremony of marriage.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1151.]

LEGATION OF THE UNITED STATES,
Peking, August 20, 1890. (Received October 6.)

SIR: I have the honor to inclose herewith a translation of the reply of the foreign office to my last communication on the subject of the Chi-nan-fu troubles, a copy whereof was inclosed in my dispatch No. 1146 of the 11th instant.

The yamèn reiterates its refusal to pay any compensation to Rev. Gilbert Reid. It says that it repeatedly directed the Shan-Tung au-

thorities to assist the missionaries in finding another tract of land. It sets forth in full a communication from the governor of Shan-Tung on the subject. The governor says that the money paid by the missionaries was recovered and deposited with the magistrate; that the missionaries refuse to receive it; that a large tract of land was purchased by the missionaries, and, although the people objected, they now have it in possession; that the United States minister repeatedly represented that the missionaries were willing to accept any suitable land and did not insist on any particular lot; that the deed to the original town lot should be returned and the matter brought to an end in order that good feeling may exist. He begs, in conclusion, that the minister be requested to so instruct the missionaries.

The yamén further observes that the acquisition of this large tract of land enables the missionaries to carry on their good work, and that yourself and I will not fail to rejoice thereat; that the property should be taken as a settlement of the whole case. If the missionaries still desire to hunt for other property and claim indemnity and press the matter, although the authorities can not accomplish their wishes, there is reason to fear that the populace will cause trouble, and that they will lose the property they now have. The yamén hopes that the minister will accept this view and will so instruct the missionaries. It denies the statements made as to the death of the landlord.

All this is simply a repetition of communications that have been repeatedly sent to me.

Under your instructions, I shall not abandon the case, though it seems useless to press it at present. I shall wait until, by the efforts of Mr. Reid, some favorable turn takes place at Chi-nan-fu or some other desirable occasion arises to renew negotiations.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1151—Translation.]

The Tung-li yamén to Mr. Denby.

AUGUST 17, 1890.

YOUR EXCELLENCY: Upon the 8th instant the prince and ministers had the honor to receive a communication from Your Excellency, wherein you stated that you were ordered by your Government to bring to their attention again the missionary case at Chi-nan-fu, and you begged that the yamén would order an immediate settlement to be made on the lines indicated by Your Excellency.

With reference to the case in question, during the eleventh and twelfth moons of last year (December, 1889, and January, 1890), the yamén had the honor to receive repeated communications from Your Excellency having relation to it, to which replies were made setting forth the circumstances, all of which is a matter of record.

As to the question of paying an indemnity to the Rev. Gilbert Reid, this was clearly explained in the yamén's previous note (January 18, 1890), a reference to which will enable Your Excellency to know the yamén's views, and there is no need to repeat them here.

In the matter of searching for and leasing other property, the prince and ministers have to say that, in view of the repeated requests made by Your Excellency, the yamén addressed several communications to the Shan-Tung authorities to render assistance to the missionaries in finding a place. The yamén has now received from the governor of Shan-Tung a communication couched in the following language:

"In case of the leasing of house property by the Rev. Gilbert Reid from Lin Mêng Kwei, a long time since instructions were issued to the magistrate, who clearly investigated the matter and brought it to a close. The money paid by the missionaries was recovered and deposited in the treasury of the magistrate. Mr. Reid has been urged frequently to take back the money, but up to the present time he has failed to do so. In the jurisdiction of the Li Cheng district another large piece of

property was purchased by the missionaries. The gentry and people of the place, however, came forward and offered objection to the missionaries having the place, but the magistrate used various ways to explain and to show them the right way to pursue, and the property was decided in favor of the missionaries. His Excellency the United States minister repeatedly stated that the missionaries were willing to accept any suitable place that may be satisfactory to the authorities, and that they did not insist on any particular spot. In the matter of the tract of land which the missionaries have acquired, the gentry and people have listened to the admonitions and orders of the officials, and they will not create any further trouble. The missionaries should return the deed of the original property to the magistrate for cancellation and receive the amount they originally paid, and thus bring the case to a termination. Then it may be hoped that harmony and good feeling may be promoted among the missionaries and populace and nothing occur that may tend to produce a discordant feeling. The governor begs that a communication be addressed to the United States minister requesting him to instruct the missionaries to lose no time in acting accordingly."

In the matter of the missionaries acquiring property, the prince and ministers would observe that the authorities of Shan-Tung have, during the last few years, spared no amount of trouble and pains, and they have not shown a want of diligence. The desire of the missionaries to carry on all their good work has (by the acquisition of the large tract of land) been fully accomplished in accordance with their wishes, and still they have retained their reputation and honor. Your Excellency, who has from first to last been actuated with a desire to protect the missionaries, will also feel comforted and consoled, and the Honorable Secretary of State, on hearing of it (the property the missionaries have acquired), will not fail to rejoice. This property can easily be taken as a settlement of the whole case.

If the missionaries still desire to hunt for other property and claim for the payment of an indemnity, this will show that they are biased and prejudiced (in favor of self-interests); and if they show a persistent desire in pressing a matter that is hard to bring about, without taking into consideration the fact that the authorities of Shan-Tung can not possibly accomplish their wishes, there is a great fear that, if the populace should hear of their action, it will cause them uneasiness, and the very property which the missionaries now have may be taken as a pretext and further complications follow. Such an event would be decidedly at variance with the views of the yamén and of Your Excellency to give full protection to the said missionaries.

The prince and ministers hope that Your Excellency will clearly and minutely point out to the missionaries the right way they should pursue and to lose no time in instructing them to hand over the deeds (of the original property) to the authorities to be canceled and to receive the money they expended. Then in future there will not be any pending question of a difficult nature.

As to the death of the landlord, who was very ill, it should not be said that his demise was the result of cruelty and maltreatment. The statement of the missionaries to that effect is one which the prince and ministers decidedly can not give credence to.

Further, as to the proper matters of business incumbent on the local officials to perform there, the yamén need not inquire about.

A necessary communication, etc.

Mr. Denby to Mr. Blaine.

No. 1153.]

LEGATION OF THE UNITED STATES,
Peking, August 21, 1890. (Received October 6.)

SIR: It is known to the Department that in the year 1887 Mr. Little, a subject of Great Britain, built a small steamer for the purpose of navigating the Yang-tse between Ichang and Chun-Khing. This intention was based on the Chefoo agreement of 1876, wherein it was stipulated that—

British merchants will not be allowed to reside at Chun-Khing or to open establishments or warehouses there so long as no steamers have access to the port.

This clause is, in its terms, rather indefinite. Sir Thomas Wade said that it was so made intentionally, but English merchants claimed that it was an implicit agreement that steamers might ascend to Chun-Khing.

When the steamer was nearly ready to make the attempt to go up the

river, the British minister deemed it advisable to procure the assent of the Imperial Government before making the proposed voyage. Negotiations followed, but the local objections were so great to the use of steam on the river that the yamen delayed granting the permit. It occurred to the Chinese that a way out of the difficulty would be to buy outright the steamer *Kuling*, which had been especially built to ascend the gorges. But this scheme was seen to be a mere makeshift, as it would deter no other British subject from entering upon the same enterprise and could not do away with the Chefoo agreement.

Inspector-General Hart was called in as an arbitrator. He proposed that steam should be excluded, but trade might be carried on in native boats. The British foreign office approved this compromise, with the understanding that the *Kuling* should be bought, and that Little should be compensated for his loss of time. Sir Robert Hart was empowered to offer to Little 120,000 taels for the purchase of the steamer and go-downs and for his compensation. This offer was accepted.

Finally a new agreement was made, of which I send you inclosed a copy.

By the articles agreed on Chun-Khing becomes an open port; the English may hire Chinese boats or build and use boats of their own after the Chinese pattern; they shall be subject to the general trade regulations prevailing on the Yang-tse; the boats shall be provided with passports and shall be subject to the supervision of the customs taotais; as soon as Chinese steamers ascend the river English steamers may go up; the convention shall be as binding in all respects as the Chefoo convention.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1153.]

Chun-Khing convention.

ARTICLE I.

Chun-Khing is hereby declared to be an open treaty port, enjoying the same privileges and similar in all respects to the other treaty ports in China. English merchants are permitted to trade between Ichang and Chun-Khing in all kinds of merchandise, and they are permitted to purchase or hire Chinese boats to carry their wares and cargoes. But if the English wish to build boats of their own, they are permitted to do so under certain conditions only. Those conditions are that they build boats only after the Chinese pattern, and that they employ Chinese crews exclusively.

ARTICLE II.

English merchants trading between Ichang and Chun-Khing, and employing boats for the transportation of their merchandise, shall trade in the same articles as they carry between Ichang and Shanghai, shall be subject to the same regulations as apply to traders between these ports, and pay duty according to the rules established for the trade of the Yang-tse ports.

ARTICLE III.

The boats shall be provided with passports, flags, and cargo manifests, all in due order. The merchandise to be transhipped to places above Ichang, as well as that going to traders in that port and Chun-Khing, is to be supervised by the customs taotai for Chuen-Tung and Chun-Khing, the commissioner of customs, and the English consul, which officials will also determine the rules that are to govern the transactions of merchants. They are also to take such measures for the revision of such trade regulations as may be found at any time insufficient or inadequate.

ARTICLE IV.

In case Chinese boats are employed by the English, the rules and regulations now in force in the Yang-tee ports shall be strictly adhered to. Such boats must pay for their licenses at Chun-Khing and Ichang. Boats built and owned by the English, after the Chinese pattern, must also pay their tonnage dues and register their flags and passports. Boats that fail to comply with all these requirements will not be eligible for the benefits of the convention; but boats that have taken all the measures herein provided will be allowed to trade freely between Ichang and Chun-Khing. Boats' passports and such documents will not be transferable. All the other boat will come under the customary rules.

ARTICLE V.

As soon as Chinese steamers bring merchandise to Chun-Khing for trading purposes English steamers will be permitted to come also.

ARTICLE VI.

This Chun-Khing convention shall be considered in the same light as the Chefoo convention and be as binding in every respect as that treaty.

Mr. Denby to Mr. Blaine.

[No 1155.]

LEGATION OF THE UNITED STATES,
Peking, August 28, 1890. (Received October 16.)

SIR: The province of Sze chuen, lying in western China, on the borders of Thibet, has been known for many hundred years as one of the most prosperous and peaceful portions of the Empire. It has always held a rank of some importance and was at one time the site of the capital, the emperors of the later Han dynasty having ruled at Ching-hu Fu. Its present flourishing condition, however, dates from the early part of the seventeenth century. At that time, in the disorders of State which culminated in the overthrow of the Ming dynasty, Sze-chuen was devastated and almost depopulated by the notorious robber Chang Hsien-chung. To repopulate its fertile hillsides land was allotted to immigrants from Hu-kwang and Kiang-si, to whom, as an inducement to settle, great reductions in the land tax were made. This ancient concession has been conscientiously adhered to, so that to this day the land tax remains almost nominal.

Throughout the present dynasty its history has been uneventful. The Taiping rebellion, which devastated thirteen provinces, inflicted little or no injury here. Continued peace, fertility of soil, and freedom from taxation have enabled the inhabitants to attain to a degree of prosperity and contentment contrasting favorably with other parts of China.

Sze chuen comprises a territory of 167,000 square miles, being almost as large as France, and has a population numbering between 35,000,000 and 45,000,000. It may be described in general terms as a plateau at the foot of the vast highlands of Thibet, exceedingly mountainous in its topography, and abounding in streams and rivers carrying a large volume of water and flowing with great rapidity. From the four largest of these rivers Sze-chuen (four rivers) gets its name. In geographical features it is divided into two parts, Western and Eastern Sze-chuen. The former partakes of the character of the Central Asian table-land. It is very rugged in its conformation, sparsely populated, and almost unfit for cultivation. The eastern portion, however, called by Richthofen the Red Basin, from the abundance of its red sandstone, is the scene of the industry, wealth, and prosperity which mark descriptions of western China. The climate is of an almost tropical character, and

the soil of great fertility, producing nearly all the cereals, as well as silk, hemp, sugar, tobacco, opium, and an unusual variety of fruits. Cotton is cultivated to some extent, but not in sufficient quantities to supply the demands of the local market.

The growth of opium has in recent years assumed great importance in Eastern Sze-chuen. The poppy is grown over vast areas, forming in many districts a regular winter crop of the bean and Indian-corn lands. This crop is very profitable to the farmer, not only for the drug produced from the sap, but for the oil pressed from the seed, the lye manufactured from the ashes of the stalks, and the leaves, which furnish food for pigs. Thirty catties of seed will yield 10 catties of superior oil for illuminating purposes or for food. Though it is doubtless chiefly for the opium produced that it is cultivated, it is said that the other products of the poppy would remunerate the grower. It is not difficult to raise, will mature in time to allow other crops to ripen on the same ground the same year, and the opium produced is readily converted into cash, all of which tends to make it popular with the farmer. The facility with which opium, on account of its convenient form and small bulk in comparison with its value, can be carried over the mountainous roads of Sze-chuen, enabling the bearer to evade vexatious likin stations and to smuggle it duty free into neighboring markets, tends also to make it an exceedingly profitable product. Some idea of the inducement to this smuggling can be formed when it is remembered that the customs duty on imported opium is 110 taels per chest. A large percentage of that produced in Sze-chuen evades all taxation whatever. The area under cultivation annually increases, and the drug of Sze chuen, with that of Manchooria, to which, however, it is inferior, constantly encroaches on the market of the Indian product. It is a source of great dissatisfaction to the missionary to observe the wide extent of fertile ground given up to Indian corn and poppy—the one to be converted into alcohol, the other into opium.

The mineral resources of this province have been long known to the Chinese, though, with the primitive means at their disposal, never fully developed. Bituminous coal, copper, gold, and iron ore are abundant, but mined in only limited quantities.

Salt, which is a Government monopoly, is obtained by the evaporation of the water of the brine wells which abound in certain districts of Sze-chuen. These brine wells and the manufacture of salt there constitute a most interesting industry. The wells are found about 175 miles from Chun-Khing, on the bank of an affluent of the Yang-tse River, near the flourishing city of Tzu-lin-tsin, or "self-flowing wells." The manufacture of salt, which has been carried on here for 1,600 to 2,000 years, is conducted somewhat as follows: By means of a rude iron drill holes 6 inches in diameter and varying from a few score of feet to 5,000 or 6,000 feet in depth are bored in the rock. The boring sometimes lasts for 40 years before brine is reached, and is carried on from generation to generation. When salt-water is finally found, it is drawn up by bullocks in long bamboo tubes by means of a rope working over a huge drum. In the vicinity of the salt wells natural gas wells are also found, from which gas is supplied to evaporate the brine in large iron caldrons, leaving the pure salt as a deposit. The product of salt here is enormous. There are 24 gas wells and about 1,000 brine wells in operation in the vicinity, producing annually 200,000 tons of salt, valued at \$5,000,000.*

* "Western China," by Vice-Consul Hart, 1888.

The methods of boring these wells and of evaporating the brine have been repeatedly described and need not be detailed here.* The industry, however, is one of the most important and interesting in China. A recent traveler says:

No one can visit this remarkable section of Sze-chuen and see the operation of this ancient industry without feeling more respect for the people who designed and executed an undertaking on so prodigious a scale 16 centuries ago.

It is rather a remarkable fact that Marco Polo, the noted Venetian traveler of the thirteenth century, who mentions the oil wells on the Caspian Sea, and whose notice nothing of importance seems to have escaped, does not speak of the kerosene and natural gas wells of Sze-chuen, though such phenomena were absolutely unknown in Europe at that time. He remained probably but a short time in Sze-chuen and mentions only its capital city and its mighty river, which he identified with the Yang-tse, but which is the tributary river Min.

The recent convention concluded between China and Great Britain, opening Chun Khing to British trade, attracted attention anew to that city and to the resources of the province of Sze-chuen. Chun-Khing is the commercial metropolis of western China, and, under its new status as a treaty port, is destined to annually increasing importance. It is situated on the Yang-tse, at the mouth of the Kiating River, 725 miles above Hankow and 1,506 miles from Shanghai. It is beautifully located on a sandstone promontory surrounded by mountains, and resembles, it is said, the city of Quebec.

Notwithstanding the difficulty of passing the Yang-tse gorges above Ichang with junks towed by coolies against the rapid current, the trade between Chun-Khing and the lower river ports is considerable. The Yang-tse and its tributary here are covered with thousands of junks, and the wharves and river front present the animated scene of a busy mercantile center. The past history of Chun-Khing does not reach back to any great antiquity. It is said to have been built by imperial command about 230 years after Christ. Its ancient earth walls were replaced with stone in 1400, and these were destroyed at the siege which the city underwent at the beginning of this dynasty, in which most of the population were slain. Since this disastrous incident Chun-Khing has flourished with the prosperity of Sze-chuen. It now numbers about 120,000 people and is the second city in the province, Ching-tu-Fu, with 1,000,000 people, being the first.

Chun-Khing was the scene of the disastrous antforeign riots in 1886, in which the Roman Catholic, English Inland, and the American Methodist Episcopal missions suffered the destruction of their property. The loss sustained, however, was fairly compensated by the Imperial Government, and these three missions are again in the field. Since that time no hostile feelings seem to have developed themselves among this usually peaceable population.

It is to be hoped that trade at Chun-Khing as a treaty port will increase so rapidly and be found so profitable and desirable that the restriction of steam navigation to the lower Yang-tse will be soon abolished and the whole province of Sze-chuen be brought within cheap and easy reach of foreign commerce. The resources of the province, the industry and prosperity of the people, are such that the foreign merchant's most sanguine estimate for the future can not be considered extravagant.

I have, etc..

CHARLES DENBY.

* See Mr. Denby's report of March 10, 1888, published in Consular Reports No. 93, p. 200, May, 1888.

Mr. Denby to Mr. Blaine.

No. 1161.]

LEGATION OF THE UNITED STATES,
Peking, September 11, 1890. (Received November 4.)

SIR: The fact that the new Canton coinage is being gradually put in circulation in China is worthy of note. It is the first serious attempt that has ever been made to coin money in China. The gold bar and the shoes of "sycee," with the copper cash, have hitherto furnished the metallic currency of the Empire, except the Mexican dollar, which is taken freely all along the coast and wherever foreigners are located. The introduction of this coinage being almost contemporaneous with the great appreciation of silver consequent on the passage of the "silver bill" by Congress, suggests some reference to the prior values of silver in China and to the effect of that legislation.

A writer in the North China Daily News puts the value of silver in 1368 at 4 ounces of silver to 1 of gold. In 1574, almost 80 years after the discovery of America, 7 or 8 ounces of silver had the value of 1 of gold. In 1635 gold was ten times as dear as silver. In 1737 it became much cheaper. In 1840, 20 and more ounces went to pay for 1 of gold. In 1850, 14 ounces of silver were required, and in 1882, 18.

If these figures are correct, it is quite plain that the value of silver has decreased in proportion to the growth of foreign trade. The more silver imported the cheaper it became.

China is essentially a silver-using country. Salaries, taxes, and duties are paid in silver. It is a grievance with the *literati* of China that foreign trade deprives China of her silver. But, on the other hand, it is entirely plain that silver mainly comes from this same trade. A glaring proof of this fact is the enormous influence that the "silver bill" has had on the value of silver in China. By the last bank quotations received officially at this legation, a gold dollar is worth \$1.0557 Mexican; a Mexican dollar is worth 94.72 cents gold; a gold dollar is worth 78.75 tael cents (Shanghai tael); a tael is equal to \$1.27 gold. When we remember that the present treasury rate for the east is 75.8, and that last year it was 73.8, and was still lower in preceding years, this enormous and sudden appreciation will be realized.

On my trip around China I found at the various ports a general and very diverse discussion of the effect of our silver legislation. In general it seemed that the merchants rather preferred that silver should be cheap. Until prices are rearranged in China, the merchant must pay more for his goods than heretofore. When he draws a bill on London against an invoice of goods, he will now receive vastly less taels or Mexican dollars. Instead of receiving, as heretofore, 100 Mexican for every 72 or 73 gold dollars, he will only receive at present rates 100 Mexican for every 95 gold dollars. The value of the tael varies so much at the different ports that I use the Mexican dollar as an illustration. There is likelihood, also, that the silver dollar may become equal to the gold dollar.

It is impossible in China to arrange wages on a lower basis. The coolie who gets \$6 (Mexican) per month, and has taken them all these years when they were worth only \$4.50 gold, will still insist on receiving \$6. It is plain that the resident in China who receives his wages or salary in gold and spends his money in China will lose enormously. But I found at Hong-Kong that all the officials who were paid in drafts on London were enthusiastic in favor of the new rates. They receive their pay in gold and send a great deal home to their families and, of course, gain in exchange. The missionaries will suffer seriously. They

are paid in gold, and they lose the difference which has heretofore existed between the two metals. Officers of the Navy and of the diplomatic and consular services are likewise heavy losers, as their money is mostly spent in China. On the other hand, if they have made any savings and want to send their money home, they will make considerable gains.

As far as I could learn, the Hong-Kong and Shanghai Bank, which is based on silver, gains by the appreciation. Its capital becomes essentially a gold capital.

The employes of the imperial maritime customs and other governmental employes, who are paid in taels, are not at all affected unless they desire to send their money abroad. They will receive what they have always received, and, if by reason of the appreciation of silver they pay less for their supplies, they will gain.

A discussion of the effect of the appreciation of silver on the value of the copper cash of the country, which has hitherto been its only coin, is of interest. According to the writer above quoted, the value of copper cash has undergone a regular depreciation since the time when the Chinese had not yet adopted silver as their chief medium of currency. In the eleventh century, at Kuangchou in Honan, 40 cash bought a catty of tea ($1\frac{1}{2}$ pounds avoirdupois). At other points the price varied from 74 to 48 cash. At present, rating the cost of a picul of tea at 16 taels and a tael at 1,500 cash, a catty costs 240 cash. The depreciation of copper in 800 years has therefore been such that 5 cash are now required to buy what 1 cash would have then bought. The writer quoted proceeds to argue that China might easily have been content with copper cash as a currency in the days of paper money. The people then required only one-fifth of the cash that they now require. It is known, also, that at that time a convenient system of notes prevailed for every article of trade.

The depreciation of cash is accounted for by the competition of silver. Salaries and large debts are paid in silver. The value of cash decreased in proportion to its disuse as a medium, a decrease which was accelerated by its great weight. But cash must remain the currency of the poor. The increasing population must have a small coin for its ordinary transactions. Copper cash will therefore always remain an important currency. The new coins, which are minted in a mint that was established at Canton by Chang Chih-tung, are said to be very handsome, equal, in fact, to the coinage of any other country. These coins are equivalent in value to a Mexican dollar, 50, 20, 10 and 5 cents. The values are expressed in fractions of a tael. The face value of a Chinese dollar is 7 mace and 2 candareens, and the other coins are worth 3 mace 6 candareens, 1 mace $4\frac{1}{2}$ candareens, 7.3 candareens and 3.63 candareens. The three smaller coins correspond with the 5, 10, and 20 cent pieces which are issued at Hong-Kong.

It may, perhaps, be convenient to state that heretofore money in China has been entirely represented by weights of silver (taels, mace, candareens). The tael actually in use is 1.351 ounces; 1 cash is equal to one-twentieth of a pence, 1 candareen is equal to half a pence, 1 mace is equal to 6d., 1 tael is equal to 5s.

Silver has hitherto been found in ingots or shoes, sometimes called "sycee," or in broken silver. Cash are bronze coins, not unlike thin farthings, with a square hole in the center for stringing. The value fluctuates and is very much a matter of bargain. Hitherto about 1,200 to a Mexican dollar has been an average quotation.

It remains to be seen whether the Chinese will adopt for circulation

the new coins in place of the Mexican. Curiously, Hong-Kong has not issued a dollar coinage. The Chinese are conservative and suspicious of all innovation, but it is likely that the new coinage, which is sustained by the views of the greatest men in the Empire, will be universally received.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1164.]

LEGATION OF THE UNITED STATES,
Peking, September 26, 1890. (Received November 8.)

SIR: I have the honor to inform you that a proclamation has been issued by the Tien-Tsin and Ho-Kien taotai and the customs taotai at Tien-Tsin that the Canton dollars and parts of dollars, made by order of the late viceroy, Chang Chih-tung, are a legal tender in any part of China.

Some account of these new coins was given in my dispatch No. 1161 of the 12th instant.

The new coins have full imperial sanction. The proclamation was issued by order of the viceroy of Chih-Li, who is also superintendent of northern trade. All merchants and others are ordered to receive these coins at their standard value.

There can scarcely be any doubt that the introduction of this coinage, should it be generally received and not tampered with until the dollars become chopped dollars, will work a financial revolution in China. It would not be too much to anticipate that the establishment of a national bank may result therefrom, and that it may become the basis of a paper currency.

I have, etc.,

CHARLES DENBY.

Mr. Blaine to Mr. Denby.

No. 562.]

DEPARTMENT OF STATE,
Washington, October 11, 1890.

SIR: I have received your No. 1151 of the 20th of August last and the copy which you inclose of the last note received from the yamén on the Chi-nan-fu troubles, which, you remark, is simply a repetition of former notes.

You will, of course, keep the matter in sight and endeavor in all proper ways to further the reasonable desires of Mr. Reid and his associates.

I am, etc.,

JAMES G. BLAINE.

Mr. Denby to Mr. Blaine.

No. 1181.]

LEGATION OF THE UNITED STATES,
Peking, October 22, 1890. (Received December 3.)

SIR: I have the honor to inclose herewith a translation of a communication received from the foreign office, together with a copy of my answer thereto. The purport of this communication is a reiterated com-

plaint that you have failed to send a reply to the representations made to you by the Chinese minister at Washington, touching the repeal of the Chinese exclusion act of October, 1888.

The foreign office again appeals to me to address you on the subject, and to ascertain finally what action will be taken in the premises, and send them a specific reply. In my answer I have undertaken to explain that Congress alone, under our form of government, has the power of legislation, and that you could not in advance determine what its action might be. The communication alluded to by the foreign office will be found in my dispatch No. 1123 of July 25, 1890. Without specific instructions from you, I do not feel myself authorized, nor do I deem it prudent for me, to enter upon a discussion with the yamén either upon the merits of the "Scott act" or of the mode of reconciling China to its results and effects.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1181—Translation.]

The Tsung-li yamén to Mr. Denby.

Informal.]

PEKING, October 19, 1890.

YOUR EXCELLENCY: Upon the 16th of June, 1890, the yamén had the honor to inform Your Excellency that in the matter of the new restriction act, an act abrogating existing treaties, repeated communications were sent to the Chinese minister at Washington, requesting him to ask that it be rejected or repealed, but the Honorable Secretary of State has failed to send a reply to the representations made to him, and Your Excellency was therefore requested in the yamén's communication to address Mr. Blaine requesting the repealing or rejection of this vexatious act.

Upon the 26th of July, 1890, Your Excellency replied to the effect that you had transmitted a translation of the yamén's communication to the Honorable Secretary of State for his perusal, but it would be necessary to wait a reply from the Department of State before sending a specific reply, etc. Now, the ministers would observe that this matter has been pending for over 4 months, and if the Honorable Secretary of State has at heart the friendly relations of the two countries, he certainly should not permit or be willing that this matter should be delayed, set aside, and take no notice of it. The ministers would beg Your Excellency to again address the Honorable Secretary of State, and ascertain finally what action will be taken in the premises, and send them a specific reply, and oblige.

Cards with compliments, etc.

[Inclosure 2 in No. 1181.]

Mr. Denby to the Tsung-li yamén.

Informal.]

LEGATION OF THE UNITED STATES,

Peking, October 22, 1890.

YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of the communication of Your Excellencies of the 19th instant, wherein you state that repeated communications had been sent to the Chinese minister in Washington, requesting him to ask the Honorable Secretary of State that the Chinese exclusion act of October, 1888, be rejected or repealed. Your Excellencies state that to these requests the Secretary of State has failed to send a reply. Your Excellencies further state that you had requested me to address the Honorable Secretary of State on the subject, and that I informed Your Excellencies on the 26th of July last that I had transmitted a translation of the yamén's communications to the Honorable Secretary of State, and that I awaited his instructions. I have now to state that I have received no reply from the Honorable Secretary of State on this subject. Your Excellencies will permit me, however, to remind you that under our form of government the making of laws, as well as the repealing or altering of laws already enacted, is intrusted to the two Houses of Congress. The President has the power of vetoing any act of Congress, but his veto may be overridden by a two-thirds vote of the members of the two Houses. It is not within the

power of the Secretary of State to reject or repeal any law. Your Excellencies ask me "to again address the Honorable Secretary of State, and ascertain finally what action will be taken in the premises, and send them (you) a specific reply."

From my statement above made of the power of the Honorable Secretary of State, it is plain that it will be impossible for him to state in advance what the action of Congress may be on any subject. I will take great pleasure in communicating to the Honorable Secretary of State a translation of your present communication. In this connection, I have the honor to inform Your Excellencies that the ordinance of the city of San Francisco, which purported to exclude the Chinese residents of that city from a certain portion of the city, and of which you complained to me in your communication to me of June 17 last, has been decided by the United States courts to be null and void and of no effect.

In my communication to you of July 26 last, I plainly intimated that this result would follow an appeal to the courts.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 1190.]

LEGATION OF THE UNITED STATES,
Peking, November 7, 1890. (Received December 30.)

SIR: I have the honor to inclose herewith a copy of my last communication to the foreign office on the subject of the Chi-nan-fu troubles. In a communication of the 15th instant, the mission advises me that it is entirely willing to surrender its claim to the suburban property if it can secure title to convenient and suitable property in the city on which to carry on its work. I have communicated this proposition to the foreign office, with the earnest request that on this basis a settlement satisfactory to all parties may be arrived at.

I have, etc.

CHARLES DENBY.

[Inclosure in No. 1190.]

Mr. Denby to the Tung-li yamen.

LEGATION OF THE UNITED STATES,
Peking, November 1, 1890.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I am compelled by a sense of duty to again call your attention to what are now widely known as the Chi-nan-fu troubles. The attention of the public in China has been largely attracted to the difficulties that the American missionaries have experienced and are experiencing at Chi-nan-fu in their attempt to prosecute their charitable and religious work. It is known to you that the missionaries do not regard the granting of the suburban tract of land as a settlement of their demand to have secured to them the lot in the city which they bought and paid for, as they thought, with the consent of the local authorities. But, from various communications sent me by Your Highness and Your Excellencies, I gather that you consider that the suburban tract was granted to the missionaries in lieu of the city lot, and that they ought to abandon all claim to retain the property bought lying in the city or to secure any other city property. The position of the missionaries is quite easily understood. They have no desire to secure property exceeding a reasonable and suitable quantity for school, hospital, and residence, but for these objects they desire a location that is convenient for their present work in the city. As their possession of the suburban property seems to Your Highness and Your Excellencies to present an objection to the securing of a city lot such as they need, I am advised by the missionaries that they are entirely willing, in order to secure a settlement of the land question, to surrender and give up on equitable terms the suburban property.

It would seem to me that on this basis a satisfactory solution of the troubles relating to a location might be reached. I would be very much obliged if Your Highness and Your Excellencies would direct the local authorities to confer with the mission-

aries as to the selection of a new site in the city, and to secure such site and allow the mission to have title thereto, and to arrange for the surrender of the suburban property, and to manage all the details in a spirit of justice and equity. It must be understood, however, that in proposing this arrangement I do not waive or compromise the present claim of Rev. Gilbert Reid for injuries done him by a mob. It is to be greatly hoped that this subject can also be taken up in a spirit of fairness, and that some conclusion satisfactory to both parties can be arrived at. But if the local authorities and Mr. Reid can not agree on a settlement, his claim will be considered by me as still pending and unsettled. An early answer to this communication is earnestly desired.

I avail, etc.,

CHARLES DENBY.

Mr. Blaine to Mr. Denby.

No. 571.]

DEPARTMENT OF STATE,
Washington, December 16, 1890.

SIR: I have to acknowledge the receipt of your No. 1150 of the 16th of August last, in relation to the subject of your presence at the marriages of Americans in China as affecting the validity of such marriages.

Your views on the subject are approved. The statutes of the United States do not provide for the performance of the marriage ceremony, either by a minister or by a consul. It is provided that in certain cases the ceremony may be performed in the presence of the consul; but it is expressly stated in section 383 of the Consular Regulations that the statute does not authorize the consular officer to perform the ceremony. The minister is not clothed with any functions in the matter.

Such are the statutory provisions. But it has been held by the Attorney-General of the United States (7 Op., 18) that in non-Christian or semicivilized countries, in which consular courts are established, the right to celebrate marriage is incident to the judicial office; and, consequently, that consuls in such countries may solemnize the ceremony if it is the wish of the parties that they should do so.

It is, however, stated in section 386 of the Consular Regulations that even in such cases it is deemed preferable, where there is a duly qualified minister of a religious denomination whose services can be obtained, that the ceremony should be performed by him, and that the consular officer should confine himself to granting the certificate elsewhere provided for.

The pertinent provisions in regard to this certificate are found in section 389 of the Consular Regulations, and in this section it is stated that the statute "does not authorize a diplomatic officer to witness or certify to a marriage ceremony performed before him."

Your advice to the parties who applied to you was in accordance with the rules above stated, which should be observed as far as practicable.

I am, etc.,

JAMES G. BLAINE.

FR 90—14

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON.

*Mr. Blaine to Mr. Tsui.*DEPARTMENT OF STATE,
Washington, January 31, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 16th ultimo, in which, with reference to the announcement made to you by the note of the Department dated 6th ultimo, touching the amendment made by the Treasury of its circular No. 100 of September 28, 1889, you say "it is understood that" the transportation companies engaged in the business of conveying Chinese laborers in transit, "centering at New York (through which the Chinese residents of Cuba principally pass), are unwilling to give any bond for this traffic," such as contemplated in the amendment named.

I am highly gratified to be able to inform you, however, that, as appears by a letter of the Treasury Department of the 28th instant now before me, the Southern Pacific Company, which is understood to control a large share of the Chinese transit business, is about to execute the bond provided for in the "amendment." The exaction of the special bond of \$200 in respect of each laborer, so far as concerns those carried by that company, would in such case cease.

Accept, etc.,

JAMES G. BLAINE.

*Mr. Tsui to Mr. Blaine.*CHINESE LEGATION,
Washington, February 27, 1890. (Received February 28.)

SIR: You have been so kind as to inform me in your note of the 31st ultimo that the Southern Pacific Company was about to execute the bonds required by the Treasury Department for the transit of Chinese subjects through the United States. It is very gratifying to learn that one medium of transit is by this means likely to be opened to the Chinese desiring to avail themselves of this treaty privilege, from which for some time past they have been cut off, and I take pleasure in thanking you for the information so kindly communicated.

It is understood, however, that the Southern Pacific Railroad Company only controls one line of travel across the continent from the port of New Orleans, while, so far as I am informed, no similar arrangement is likely to be made from the port of New York, through which last-named port, as I have heretofore stated, the Chinese residents in Cuba have been accustomed to pass. Your note to which I now have the honor to reply does not attempt an answer to the position maintained by me in my notes of November 5 and December 16, 1889, that under the existing treaty stipulations Chinese subjects are entitled to the same privileges of free transit through the territory of the United States as the subjects of the most favored nation; and, if this position is correct, it can hardly be a compliance with these stipulations to be informed that arrangements are likely to be made whereby Chinese subjects are restricted to admission into the United States at a single port and to transit through the territory over a single line of railroad.

In the hope that a more satisfactory solution of this question may be reached, I again venture to direct your attention to the facts and reasons set forth in my notes above cited and which remain uncontroverted.

I improve, etc.

TSUI KWO YIN.

Mr. Blaine to Mr. Tsui.

DEPARTMENT OF STATE,
Washington, March 13, 1890.

SIR: I have the honor to acknowledge the receipt of your esteemed note of the 27th ultimo, in further relation to the transit of Chinese subjects through the United States.

I have made known its contents to the Secretary of the Treasury, and am now awaiting whatever further statement he may have to communicate on the subject.

Accept, etc.,

JAMES G. BLAINE.

Mr. Tsui to Mr. Blaine.

CHINESE LEGATION,
Washington, March 26, 1890. (Received March 28.)

SIR: Under date of the 26th of January, 1889, my predecessor submitted some considerations to your Department upon the act of your Congress of October 1, 1888. Mr. Secretary Bayard, on the 2d of February, 1889, referred to that note as containing "highly important matters" and promised to "make more extended reply" thereto. But nearly 6 months having passed without a reply being received, and in view of the advent meanwhile of anew Administration of your nation, my Government deeming it important that the subject be freshly brought to your attention, my predecessor, under date of July 8, 1889, submitted to you further considerations, which, it was hoped, would bring about some change in the legislative and executive attitude of the American Government. The receipt of that note was courteously acknowledged on the 15th of the same month, and the assurance given that the subject would "receive the very careful and prompt attention of the Department."

I have waited patiently upon the strength of this assurance for the past 8 months, and should not now break silence on the subject if I could do so with a proper regard for the instructions of my Government and for the condition of my unfortunate countrymen, whose rights and interests are so sorely vexed by this legislation of your Congress and by the resulting action of the executive department. When it is borne in mind that a year and a half has passed since your Congress and President united in a measure which (as the Supreme Court decided) compelled the authorities to disregard and trample upon solemn treaty stipulations, and during which time not only the measure itself has been most rigidly enforced, but to its severities have been added by executive action new restrictions upon Chinese subjects in the United States, it certainly will not surprise you if I communicate to you the earnest and anxious desire of the Imperial Government that I should obtain from you some expression of the views and intentions of your Government on this important subject.

In order that I may enlist your sympathy with the desire of my Government, and that you may be persuaded of the reasonableness of it, I beg that you will indulge me while I state some of the effects of the act of October 1, 1888, and of the resulting policy of the Treasury Department. Although the treaty of 1880 stipulated that Chinese laborers then in the United States should "be allowed to go and come of their own free will and accord," and should have the same treatment as other foreigners, they conformed to the exceptional provision of a law which required them, on departure for temporary visits to their native land, to take a certificate from the customs authorities at the port of departure, descriptive of their person, and which contained a statement that the person to whom it was issued was "entitled * * * to return and reënter the United States." The official statistics show that at the time the act of 1888 went into effect there were outstanding at the single port of San Francisco over twenty thousand of these certificates. At that very time there were about six hundred of the holders of these certificates who were on the high seas en route for San Francisco, and who had no notice or means of knowledge of the passage of the act till they reached that port; and yet the supreme tribunal of your country has decided that it was the duty of the authorities of the port of San Francisco, under the act, to dishonor their own certificates, and turn these poor laborers back from its shores out upon the broad ocean, and force them to seek a more hospitable haven elsewhere.

The tens of thousands of Chinese subjects who temporarily left the shores of the United States, armed with the signed and sealed assurance of this Government of their right to return, and relying upon its good faith, in almost every case left behind them in this country property, business, families, relatives, obligations, or contracts, which have been imperiled, broken up, or in some shape injuriously affected by their unexpected and unwarranted exclusion. The vast number of Chinese laborers who were in the United States at the time of the passage of the act of 1888 had come here under the guaranty of solemn treaty stipulations, which allowed them "to go and come of their own free will and accord" and on the solemn assurance that they would be maintained in this privilege against "legislative enactment;" and under this act, if they should visit their native land, drawn thither by the ties of family, patriotism, or business, they must sacrifice and abandon all their interests and property in the United States; they must choose between a complete breaking up of long-established business relations here, and a perpetual banishment from their native land by a continuous residence in this country.

The foregoing shows that there are three classes of Chinese laborers whose treaty rights have been grievously impaired in different ways by the operation of the act of 1888, to wit, those who were on the ocean, those who were abroad holding return certificates, and those who were in the United States at the time the act was passed. But there are two other classes of Chinese subjects whose treaty rights have been abrogated or impaired since that act was passed, not by the direct application of its provisions, but, I am sorry to say, by new restrictions and regulations of the executive department of your Government. In my notes of November 5 and December 16 last I have shown you how the transit of Chinese laborers through the United States has been obstructed and in great measure cut off since October, 1888, notwithstanding the law officers of your Government acknowledge that there has been no legislation of your Congress, either in 1882, in 1884, or in 1888, which in the slightest degree affects the treaty rights on this subject.

It has been serious enough when the Imperial Government beheld the manifest intention of your Congress in the years named to obstruct and finally abrogate the treaties existing between the two nations; but it regards with real alarm the apparent disposition of the Treasury Department to go even beyond the enactments of Congress in the same direction. In addition to the stoppage or obstruction of transit, the Chinese merchants who have been established in the United States, as well as those in China or in foreign nations who have trade relations with this country, have encountered much harsher treatment and increasing embarrassment during the past year and a half from the customs authorities; and it has become much more difficult than formerly for them to carry on commerce in and with the United States.

Such, Mr. Secretary, are some of the losses, injuries, and hardships which have been and are being suffered by my countrymen as the direct and indirect effects of the passage of the act of 1888, and which, I trust, will more fully explain to you the anxious desire of my Government to receive from you some expression of the views and intentions of your Government on the important subjects communicated in the cited notes of this legation. But I must ask your indulgence while I attempt, as briefly as I can, to show you the reverse side of this question, to wit, how the American Government expects and demands the treaties to be observed in China, and how, in fact, the Imperial Government does observe and enforce them. And for this purpose I confine myself to the past 2 years, within which the most objectionable legislation and restrictions have been adopted in the United States.

The two classes of American interests represented in China are, first, the missionaries and their propaganda, and, second, the merchants and their commerce. I need not cite facts to show one so intelligent in the world's affairs as you that the most fruitful source of trouble and embarrassment for China in its relations with the treaty powers has been the presence in my country of the missionaries. In substantiation of this, your own worthy minister quotes to your predecessor the language of Prince Kung in these words:

The missionary question affects the whole question of peaceful relations with foreign powers * * * the whole question of their trade. (Foreign Relations, 1887, p. 197.)

But, notwithstanding the prejudices of our common people and the embarrassments which constantly surround the authorities, the whole power of the Government has at all times been exercised to protect the lives and property of this disturbing class of foreigners. So far as I can remember, not a single American missionary has lost his life, none of their treaty guaranties have been violated with either the consent or connivance of the Government, and every dollar of loss which they have sustained from violence brought about through either their own imprudence or the sudden outbursts of the populace has been reimbursed to them by the Government. And this has not only been true as to the past 2 years, but through every year since the first treaty between the two nations was signed in 1844. I need not point out how marked has been the contrast in this respect of the treatment of Chinese residents in the United States. And it is to be noted that in the defense of the claims of the missionaries the American minister and his Government have not been content with requiring a strict observance of treaty stipulations, but have gone beyond them and demanded protection and indemnity in cases where they admit that the terms of the treaties do not justify such demands.

It has been continuously admitted that "the true construction of the treaties" does not secure to the missionaries the right of permanent residence or ownership of real estate in the interior of China; and yet, because the local authorities have tolerated their residences in isolated cases, it is insisted that the American missionary thereby "acquires vested rights, which his own Government and the Imperial Government also are bound to secure to him if attacked." (Foreign Relations, 1888, vol. 1, pp. 220, 271.) And we find that the American minister at Peking has in the past 2 years been very zealous in demanding the protection of missionaries, reimbursement of their losses, and reinstatement on their lands in cases where it is admitted that the terms of the treaties do not sustain such demands, his position being that though "the United States could not, as a matter of treaty stipulation, insist" upon such treatment being awarded to American missionaries, yet where residence and ownership of land are "accorded to citizens or subjects of other foreign powers under the favored-nation clause, *exact equality* should be insisted upon." And the minister might well take such an advanced position, when it appears that he has been instructed by his chief to obtain for his countrymen "*no less measure of privilege than is granted by treaty, conferred by favor, or procured through use and custom for the missionaries of any other nation or creed.*"

And this broad doctrine is advocated and insisted upon by the Secretary of State at a time when the Congress, the Executive, and the Supreme Court of his country are setting it at defiance in cases where its application is invoked in behalf of Chinese residents in the United States. Your immediate predecessor even uses the freedom extended by China to foreigners in its treaties as an argument for the enlarged demands of the minister in these words:

When China was opened by treaties with foreign powers to the entrance and residence of foreigners, it was inevitable that the restricted limits of residence and business prescribed in these treaties should be extended. (Foreign Relations, 1888, pp. 266, 272, 301, 325.)

It would seem natural to presume that the "inevitable" effect which the Secretary here notes was the logical and customary experience among western nations concerning treaty concessions and privileges. But, unfortunately, China is compelled to look elsewhere than to the United States for a realization of the experience so forcibly and unequivocally assumed by this eminent authority. In 1868 the United States, for the first time by treaty guaranties, opened its territory to the entrance and residence of Chinese upon the same terms as were extended to the subjects of the most-favored nation. But the "inevitable" result of such an act, as announced by the American Secretary of State, was not realized in this country. So far from the privileges of "residence and business prescribed in the treaty" being "extended," they have been steadily and persistently restricted; first, by peaceful treaty negotiations in 1880; then by hostile legislation in 1882 and 1884; and, finally, by positive abrogation by Congress in 1888, approved by the Executive, and sanctioned by the Supreme Court.

But, notwithstanding this contrary treatment of the Chinese in the United States, the Imperial Government has steadily and uniformly recognized and enforced, not only its plain treaty stipulations respecting this disturbing element introduced into its territory, but, in its desire to deal justly and pursue friendly relations with America, it has gone beyond the treaties and yielded to the foregoing extreme and illogical demands of your Government. And I am gratified to know that this

spirit of conciliation has been recognized by the Honorable Secretary of State, in the following words:

Experience shows that by a moderate amount of conciliation and good will the rights of foreigners will be gradually extended and interpreted by the Chinese in a more liberal spirit and beyond the limits of the treaty ports. (Foreign Relations, 1888, p. 310.)

Let us now turn for a few moments to the position of the American Government in respect to the rights of its merchants and commerce in China and the treatment they receive from the authorities there. It is natural that the American Government should take a deep interest in this trade because of its extent and importance. Mr. Denby, in a dispatch dated July 14, 1888, reports on the foreign trade of China that the exports and the imports from the United States stand second in volume, or next to those of Great Britain. Yet in the past 2 years or more I am not aware of any specific complaint of injustice or hardship suffered by a single American merchant in China, or any allegation of different treatment extended to them than to all other foreign merchants. The only question of trade which has arisen between the two Governments has been on the importation and regulation of trade in kerosene. Owing to its explosive character, many lives have been lost and much property destroyed in China, and certain of the provincial authorities have urged upon the Imperial Government the restriction of its importation by governmental control of its sale and by internal taxation; and, in furtherance of these views, one of the viceroys, in memorializing the Throne, referred to the position assumed by the United States in the exclusion of Chinese immigration, and said:

If they can prohibit our going there because Chinese labor is injurious to their interests, we have an equal right to prohibit the importation of kerosene when it is injurious to us.

But Minister Denby, usually so intelligent respecting Chinese matters, is oblivious to the force of this argument and transmits it to Washington, with the criticism that it is a "stupid memorial." He follows it up with an earnest protest against the right of China to levy an internal discriminating tax upon kerosene after it has left the foreign merchant and passed into the interior, notwithstanding he admits that it is and long has been the law and practice of China that "once foreign goods have entered China and become the property of Chinese merchants, their taxation is a matter wholly and solely within the direction of China," and notwithstanding he shows that the Supreme Court of the United States has recognized substantially the same power of taxation as belonging to the States of your Union. He further claims that such taxation is a violation of the spirit and intent of the treaty, though he does not contend that any specific clause is infringed thereby. He maintains that "the interpretation (of treaties) shall be favorable rather than odious; * * * that the reason of the treaty shall prevail." And in these positions he is supported by the Secretary of State. (Foreign Relations, 1887, pp. 192, 225; 1888, pp. 267, 286.)

If this policy respecting treaties which was urged upon China had been followed in the United States, how different would be the international relations of the two countries to-day. China has welcomed American commerce and placed its merchants upon an equal footing in its ports with those of the most friendly and favored nation, and the only question of difference which has arisen is respecting a matter of internal taxation, in which China follows the same law and practice as

is allowed in the United States. Contrast this with the treatment of Chinese merchants in this country. Although by express treaty stipulation they are in the United States to be "allowed to go and come of their own free will and accord," and are guaranteed the treatment "accorded to the citizens or subjects of the most favored nation," for the past 8 years no such treatment has been extended to them. While the merchants of all other nations of the earth are permitted free and unobstructed entrance into and departure from the ports of the United States, the Chinese merchant has by the legislation of your Congress had thrown around him the most obstructive, embarrassing, and humiliating restrictions. He is treated by the customs authorities with much the same surveillance as is extended to vagrants or criminals; and before he is permitted to land he is required to produce a certificate, the strict conditions of which make it difficult and expensive to comply with, and humiliating and objectionable to the man of honor and self-respect, it being necessary to set forth the amount and details of the business in which he is and has been engaged, with a statement of his family history and occupation, and all these matters are subject to the examination and approval of the American consul at the Chinese or foreign port whence he sails.

Only within the present month two of the most respectable Chinese merchants of Hong Kong arrived in the port of San Francisco, desiring to land temporarily and visit their customers in the various cities of the Pacific States; but, because they did not bring with them from that foreign port the certificate above described, which it was impossible for them to obtain, they were kept as prisoners on board the vessel upon which they arrived until it sailed on its return voyage, notwithstanding the collector of customs was satisfied they belonged to the exempt class entitled, under the treaty, to the same free entrance as a British or other merchant, and they were driven back upon their long voyage across the Pacific Ocean; a condition of things which your President 4 years ago recognized as contrary to the treaty and urged your Congress to rectify. (Senate Ex. Doc. 118, Forty-ninth Congress, first session.)

Such, Mr. Secretary, are some of the contrasts in the observance and enforcement of treaty rights between the two nations. Can you wonder that the Imperial Government is growing restive and impatient under such dissimilarity of treatment, and is urging me to obtain from you some satisfactory explanation of the conduct of the American authorities in the past and some assurance of the course to be pursued in the future?

You will observe that the object had in view in the cited note of this legation addressed to your predecessor was to induce the Executive to recommend Congress to undo the wrong and hardships indicted upon my countrymen by its legislation; and in the subsequent note addressed to you this object was brought to your attention, and the hope was expressed that, with your earnest desire to deal justly and to "maintain the public duty and the public honor," you would find a speedy method of satisfying the reasonable expectations of the Imperial Government. In view of the fact that one session of your Congress has passed and another is already well advanced without any communication from the President, and of your continued silence respecting my notes, I am being reluctantly forced to the conclusion that you regard that method of adjustment as impracticable. It will make me happy to be informed that this conclusion is erroneous, and that your Congress can yet be induced to "maintain the public duty and the public honor." But, if this, unfortunately, may not be, then I can see only one other

proper solution, and that the one indicated in the fifth point of my predecessor's note of July 8, 1889. The public law of all nations recognizes the right of China to resort to retaliation for these violated treaty guarantees, and such a course applied to the American missionaries and merchants has been recommended to the Imperial Government by many of its statesmen; but its long-maintained friendship for the United States, and its desire to observe a more humane and elevated standard of intercourse with the nations of the world, point to a better method of adjustment. Conscious that it has religiously kept faith with all its treaty pledges towards your country, my Government is persuaded that America will not be blind to its own obligations, nor deaf to the appeals made to it on behalf of the Chinese subjects who have been so grievously injured in their treaty rights by the legislation of Congress.

It is a principle of public law, recognized, I believe, by all international writers, that a treaty between two independent nations is a contract, and that the nation which fails to execute or violates it is responsible to the other for all injuries suffered by its subjects thereby, and that it can not escape responsibility because of the action or failure of action of any internal power or authority in its system of government. But I need not quote any foreign publicists on this subject, because your own country furnishes abundant authority to sustain this position. The great American law writer Wheaton, whose wisdom and justice are recognized throughout all countries, says:

The King (or the President) can not compel the Chambers (or Congress), neither can he compel the courts; but the nation is not the less responsible for the breach of faith thus arising out of the discordant action of the international machinery of its constitution. (Lawrence's Wheaton, p. 459.)

Citation has already been made of the declarations of the Solicitor of your own Department to the same effect in even stronger language. And it seems that the distinguished statesmen who have preceded you in your great office have held the same just principle. I need only quote the words of Mr. Secretary Fish:

The foreign nation whose rights are invaded thereby [by legislation of Congress] has no less cause of complaint and no less right to decline to recognize any internal legislation which presumes to limit or curtail rights accorded by treaty. (Wharton, section 138.)

But the Supreme Court of your country, in the decision in which it sustained the act of 1888, has been very explicit in recognizing this principle. It declares that "a treaty * * * is in its nature a contract between nations," and that "it must be conceded that the act of 1888 is in contravention of express stipulations of the treaty of 1868 and of the supplemental treaty of 1880," and, although the act of Congress is binding upon the internal authorities, that act does justify complaint on the part of the other contracting party. And this doctrine is made more clear by the learned American judges whose opinions are cited approvingly by the Supreme Court. Mr. Justice Curtis says:

The sovereign between whom and the United States a treaty has been made has a right to expect its stipulations to be kept with scrupulous good faith. (2 Curtis, C. C., 466.)

And again he says:

The responsibility of the Government to a foreign nation for the exercise of these powers (by legislation) * * * is to be met and justified to the foreign nation according to the requirements of the rules of public law. (19 Howard, 629.)

And the Supreme Court has held :

A treaty is primarily a compact between independent nations. It depends for the enforcement of its provisions on the interest and the honor of the governments which are parties to it. If this fails, its infraction becomes the subject of international negotiations and reclamations, so far as the injured party chooses to seek redress. (112 U. S. R., 598.)

And further :

If the country with which the treaty is made is dissatisfied with the action of the legislative department, it may present its complaint to the executive head of the government and take such other measures as it may deem essential for the protection of its interests. (124 U. S. R., 194.)

To the foregoing I must add the declarations of two of the present members of that court. Justice Miller says, as to reclamations growing out of legislative violation of treaties :

Questions of this class are international questions, and are to be settled between the foreign nations interested in the treaties and the political department of our Government. (1 Woolworth, 156.)

And Justice Blatchford says :

Congress legislates * * * subject to the responsibilities of this Government, in its national character, for any breach of its faith with foreign nations. (8 Blatchford, 310.)

My predecessor expressed his amazement that the Supreme Court should announce the doctrine that the act of Congress must be obeyed though it is in plain violation of the treaty, and that surprise has been shared by my Government; but it is my duty to do justice to this high tribunal. I must express my profound obligations to it for making the further declarations in its opinion given above, but especially for citing the decisions from which I have just quoted. These show that this august body, while it confesses its obligation to enforce the will of Congress within the United States, recognizes a broader and higher obligation and responsibility as resting upon the American Government—an obligation which requires it to see that the stipulations of its treaties are “kept with scrupulous good faith,” and a responsibility which demands that “any breach of its faith with foreign nations is to be met and justified * * * according to the requirements of the rules of public law.” Hence, Mr. Secretary, I present this view of the question to you, with the utmost confidence in your readiness to accept whatever responsibilities have attached to your Government for the “breach of its faith” as the resulting act of the legislation of your Congress, supported, as I am, in my demand, not only by the international authority of all nations, but by your own Department and by the highest tribunal and judges of your own nation.

I have shown you how the legislation of your Congress, which is conceded by your Supreme Court to be in violation of the treaties, has impaired or destroyed the rights and property interests of the three classes of Chinese laborers described, as well as of Chinese subjects entitled to free transit through the United States and of Chinese merchants obstructed in their business and denied the privileges extended to those of other nations. I abstain for the present from presenting any formal estimate of damages and losses sustained by the above classes of subjects through the legislative infringement of the treaties. I shall await your reply to this and the previous notes of this legation, in the hope that even yet a method may be found of undoing the wrongful legislation and restoring to their treaty rights the Chinese subjects now in, or entitled to come into, the United States. But, whatever may be the ulti-

mate decision of your Government on this point, I am persuaded that I have given you such cogent reasons to support the expectation of the Imperial Government to be informed without further delay of the views and intentions of your Executive respecting the treaty obligations toward China, that you will favor me with an early communication on the subject.

I improve, etc.,

TSUI KWO YIN.

Mr. Pung to Mr. Blaine.

CHINESE LEGATION,
Washington, May 23, 1890. (Received May 24.)

SIR: It becomes my duty to bring to your attention the condition of the Chinese subjects resident in the city of San Francisco, Cal., and to invoke for them the protection of the Government of the United States against the injustice and hardships sought to be inflicted upon them by the local authorities of that city.

I am informed that in the month of March last an order or law was passed by the authorities of the city of San Francisco requiring the Chinese residents of that city to remove from their present homes and places of business to a certain prescribed district in a remote suburb of that city, and declaring it unlawful for any Chinese person to reside, locate, or carry on business in any other place within said city, except in the prescribed district, under penalty of imprisonment. I send you with this note a copy of this order or law as it was printed in one of the newspapers of that city.

I am now in receipt of a telegram from the imperial consul-general at San Francisco, stating that a large number of Chinese subjects have been arrested by the authorities of that city, in accordance with the provisions of the order or pretended law above cited, because of their failure to abandon their homes and places of business and remove to the prescribed district. The mere statement of this fact is, I have no doubt, enough to show you the enormity of the outrage which is sought to be inflicted upon my countrymen; but when I add that it involves the breaking up of the homes and places of business of many thousands of persons who have been there peacefully established for a long series of years, and imperils the possession and enjoyment of property to the value of hundreds of millions of dollars, you will recognize the aggravated character and extent of the wrong which is being perpetrated in flagrant violation of treaty rights solemnly guaranteed to these suffering Chinese.

Article 3 of the treaty of 1880 between China and the United States is as follows:

If Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill treatment at the hands of any other persons, the Government of the United States *will exert all its power* to devise measures for their protection and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty.

You will remember that the treaty from which this article is quoted was negotiated by commissioners sent to Peking from Washington for that express purpose, and that these commissioners, in order to induce

the Chinese Government to make the treaty modification which they desired, gave, among others, the following assurance:

So far as those Chinese are concerned who, under treaty guaranty, have come to the United States, the Government recognizes *but one duty*, and that is, to maintain them in the exercise of their treaty privileges against *any opposition*, whether it takes the shape of popular violence or of *legislative enactment*. (Foreign Relations of the United States, 1881, p. 173.)

The foregoing assurance was, no doubt, given in all sincerity and with an earnest intention that it would be carried out, if, unhappily, the occasion should ever arise. The statement which I have made of the present situation of the unfortunate Chinese subjects now resident in San Francisco certainly presents an urgent occasion to make effective the foregoing treaty stipulation and the solemn assurance above cited; and I feel that I can with confidence appeal to you to cause the power of your Government to be exerted to maintain these subjects in the exercise of their treaty privileges. It would be superfluous for me to indicate to you what course should be adopted to this end, but I venture to suggest that many of these subjects are poor and friendless, and are unable to maintain their right to peaceable residence through the long and expensive litigation of the courts, and that, unless they receive the protecting care of the Government of the United States, they will be helpless victims of this corporate outrage.

The telegram of the consul-general leads me to fear that, unless prompt measures are adopted, the authorities of San Francisco will cause great distress and injury to my countrymen, and I therefore beg of you to take whatever steps you may think proper and necessary with as little delay as may be found convenient; and I shall esteem it a favor to be informed of your action.

I improve, etc.,

PUNG KWANG YU.

[Inclosure.—From San Francisco Examiner, March 5, 1890.]

Order No. —, designating the location and the district in which the Chinese shall reside and carry on business in this city and county.

The people of the city and county of San Francisco do hereby ordain as follows:

SECTION 1. It is hereby declared unlawful for any Chinese to locate, reside, or carry on business within the limits of the city and county of San Francisco, except in that district of said city and county hereinafter prescribed for their location.

SEC. 2. The following portions of the city and county of San Francisco are hereby set apart for the location of all Chinese who may desire to reside, locate, or carry on business within the limits of said city and county of San Francisco, to wit:

Within that tract of land described as follows: Commencing at the intersection of the easterly line of Kentucky street with the southwesterly line of First avenue; thence southeasterly along the southwesterly line of First avenue to the northwesterly line of I street; thence southwesterly along the northwesterly line of I street to the southwesterly line of Seventh avenue; thence northwesterly along the southwesterly line of Seventh avenue to the southeasterly line of Railroad avenue; thence northeasterly along the southeasterly line of Railroad avenue to Kentucky street; thence northerly along the easterly line of Kentucky street to the southwesterly line of First avenue and place of commencement.

SEC. 3. Within 60 days after the passage of this ordinance all Chinese now located, residing in, or carrying on business within the limits of said city and county of San Francisco shall either remove without the limits of said city and county of San Francisco or remove and locate within the district of said city and county of San Francisco herein provided for their location.

SEC. 4. Any Chinese residing, locating, or carrying on business within the limits of the city and county of San Francisco contrary to the provisions of this order shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for a term not exceeding 6 months.

SEC. 5. It is hereby made the duty of the chief of police and of every member of the police department of said city and county of San Francisco to strictly enforce the provisions of this order.

And the clerk is hereby directed to advertise this order as required by law.

In board of supervisors, San Francisco, February 17, 1890.

Passed for printing by the following vote: Ayes—Supervisors Bingham, Wright, Boyd, Pessia, Bush, Ellert, Wheelan, Becker, Pilster, Kingswell, Barry, Noble.

JNO. A. RUSSELL,

Clerk.

Mr. Blaine to Mr. Pung.

DEPARTMENT OF STATE,
Washington, May 27, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 24th (23d) instant, in which you bring to the notice of the Department the text of an order said to have been passed by the board of supervisors of the city and county of San Francisco in March last, designating the location and the district in which Chinese shall reside and carry on business within the corporate limits. You invoke the intervention of the Government of the United States against the execution of this ordinance, referring, in this relation, to the treaty between China and the United States of 1880, the third article of which is as follows:

If Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill treatment at the hands of any other persons, the Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty.

I have referred a copy of your note to the Attorney-General for his consideration. Meanwhile, I may ask your attention to the sixth article of the Constitution of the United States, which places treaties on the same juridical basis as laws and makes them the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. By the second section of the third article the judicial power of the United States is made to extend to all cases arising under the treaties. Under these provisions, and the statutes of the United States passed to give them effect, it is believed that the Chinese who are said to have been arrested under the order in question may, in an application to the courts for release from imprisonment or detention, speedily obtain a decision as to their rights and the legality of the order. If the Department be correct in this belief, there does not appear to be any occasion to invoke the stipulation of the third article of the immigration treaty of 1880, by which the Government of the United States undertakes to "exert all its power to devise measures" for the protection of the Chinese and to secure them in their rights, since such measures are already in existence and clearly available.

Accept, etc.,

JAMES G. BLAINE.

Mr. Pung to Mr. Blaine.

CHINESE LEGATION,
Washington, June 7, 1890. (Received June 7.)

SIR: I have been honored by the receipt of your note of the 27th ultimo, in which, in answer to the request contained in my note of the

24th ultimo for the interposition of the Government of the United States against the execution of the ordinance of the city of San Francisco respecting Chinese, you are kind enough to point out to me the articles of your Federal Constitution under which you say the Chinese subjects are secured in their treaty rights, and as a consequence of which you think there is no occasion to invoke the interposition of your Government.

I feel it my duty to tender you my thanks for bringing to my attention these provisions of the Constitution of your country. In view of what seems to many foreigners the complex system of your Government, it must be held as a great kindness to have the force and effect of your Constitution in its relation to treaty rights and privileges explained in so authoritative a manner; and I am glad to be thus confirmed in the conviction I already entertained that under the Constitution and laws of your enlightened country its courts were open to the subjects of all friendly nations for protection against wrong or injury to their persons or property. You will, however, excuse me for stating that it was not from ignorance of the articles cited of your Constitution that I made the request contained in my note of the 24th ultimo, but because my Government entertained the belief that the Government of the United States, in proffering and confirming article 3 of the treaty of 1880, assumed for itself a special and additional obligation towards Chinese subjects within its territory—an obligation which it had not before undertaken.

I do not think it necessary to relate the history of the negotiations resulting in the treaty of 1880, which has already been the subject of notes of this legation. It is sufficient to recall the fact that it was entered into at the express request of the United States, and that China consented to surrender certain treaty rights as to immigration upon the express condition and assurance of the American commissioners that the Chinese subjects in the United States should receive special protection, and that assurance was embodied in article 3. My Government can not understand the meaning of that article if its insertion did not imply that it was to throw around the Chinese subjects in the United States some protection which they did not then have. If, in exchange for the surrender of the right of immigration, a stipulation was to be given that the courts of the United States were to be thrown open to Chinese subjects, that would have been held to be a superfluous guaranty, for they already possessed that right under the most favored nation clause of article 6 of the treaty of 1868. There would seem to be no meaning in or occasion for simply reinserting that clause. The history of the negotiation, the concurrent assurances of the American commissioners, and the language of the treaty itself certainly justified the Imperial Government in entertaining the belief that under the stipulation of article 3 some positive, affirmative, active, interposition of the executive department of the United States would be exercised when it received notice that Chinese subjects in its territory were receiving ill treatment at the hands of the local authorities. It would hardly have been considered by the Imperial Government as a sufficient inducement to enter into the new treaty to be assured that, when the authorities of the great and powerful city of San Francisco should seize upon the Chinese subjects in that city and drag them from their long-established homes and business, the Federal Government would do nothing more than point them to the courts, where they could have the poor privilege of carrying on a long and expensive litigation against a powerful corporation in a community where they were treated as a despised and outcast race.

I also find an additional reason to support the construction placed upon article 3 by my Government in the fact that the language employed therein is exceptional and peculiar. I have made careful examination of the volume containing the "Treaties and Conventions concluded between the United States and other Powers," published in 1889, and I have not been able to find any such or equivalent language used in any of the treaties with other nations.

In addition to the foregoing reasons for presenting the request contained in my note of the 24th ultimo, I was led to do so because such has been the uniform practice of the American minister at Peking, acting under the instructions of your Department, in all similar cases in China. Whenever American residents in that country are threatened with ill treatment at the hands of the local authorities, or of combinations of evil-disposed persons, the American minister is prompt to demand the active interposition of the Imperial Government; and in no instance has my Government returned the answer that the American residents must alone, and unsupported by the Imperial power and influence, carry on their contest with the local authorities; but, on the contrary, in every instance of threatened ill treatment or of wrongdoers, the Imperial Government has been prompt to interpose its authority to secure to American citizens their treaty rights.

It is earnestly to be hoped, therefore, that when the Attorney-General, to whom, you inform me, you have kindly submitted my note, shall learn of the great wrong that is being inflicted upon my poor countrymen at San Francisco, he will find some prompt and effective way whereby "the Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights" which other foreign residents enjoy without molestation.

It is hardly necessary for me to state to you that the Government of China can have no official relations with the authorities of the city of San Francisco, and that whatever loss is sustained by the Chinese residents of that city by reason of the enforcement of the ordinance cited must be regarded as occasioned by the failure of the Government of the United States to secure to those Chinese subjects their treaty rights, and that the Imperial Government must look to that Government for proper indemnification therefor. It is confidently expected, however, that the Government of the United States will exert its power so as to avoid all cause of complaint or indemnification.

I repeat, etc.,

PUNG KWANG YU.

Mr. Blaine to Mr. Pung.

DEPARTMENT OF STATE,
Washington, June 14, 1890.

SIR: I have had the honor to receive your note of the 7th instant, in which, in reply to my communication of the 27th ultimo, you recur to the subject of the recent ordinance of the city of San Francisco touching the removal of Chinese there resident to a certain quarter defined in the ordinance. In my note, which was in reply to your representations of the 24th ultimo, with which you brought the ordinance to my attention, I pointed out that the Chinese subjects who might be affected had an ample and immediate remedy in the courts; and for that reason I stated that there did not seem to be occasion in the present instance to

invoke the stipulation in the immigration treaty of 1880 by which the United States agreed, in respect to the Chinese in this country, to "exert all its power to devise measures for their protection and to secure to them the same rights" as other foreign residents enjoy.

In reply to my communication, you state that you were already aware of the existence of the judicial remedy to which I adverted, and that it was not from ignorance of the constitutional provisions cited by me that you preferred the request contained in your note of the 24th ultimo, but because your Government entertains the belief that the Government of the United States, in proffering and confirming article 3 of the treaty of 1880, assumed for itself a special and additional obligation towards Chinese subjects within its territory—an obligation which it had not before undertaken.

It is not my purpose to enter into a general discussion of the meaning and scope of the article in question, since, for the reasons I have heretofore stated, I do not think that it is involved in the present case; but, in order that my position may be fully understood, I deem it my duty to reply to some of your observations. It has not been my intention to deny, nor do I think that an attentive perusal of my note will disclose a denial, that by article 3 of the treaty of 1880 the Government of the United States is bound to devise such measures as may be found necessary to secure to Chinese subjects in this country "the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty." Such, indeed, is the simple language of the article. But I regret to find that we are at variance in our views both as to the scope, the occasion, and the character of the duty imposed upon this Government.

The burden of your argument appears to be that by article 3 of the treaty of 1880 the United States is bound to render protection to the Chinese, whenever their rights are assailed, through the executive department of the Government. "If," you say, "in exchange for the surrender of the right of immigration, a stipulation was to be given that the courts of the United States were to be thrown open to Chinese subjects, that would have been held to be a superfluous guaranty, for they already possessed that right under the most-favored-nation clause of article 4 of the treaty of 1868. There would seem to be no meaning in or occasion for simply reinserting that clause." And you follow these statements with the suggestion that executive action was mainly, if not alone, contemplated.

You will permit me to say, in all candor, that I am wholly unable to accept this conclusion, since I find nothing to sustain it. The complete provisions of the article are as follows :

If Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill treatment at the hands of any other persons, the Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty.

This language seems to me to be capable of but one construction, and that is, that, where existing measures or remedies were found to be ineffective for the purposes specified, the Government of the United States would exert its power to devise others to supply the defect. This construction appears to be reasonable and fair and to give to the article a very substantial meaning. What more could the Government of China have asked or desired? If existing remedies, whether judicial or other-

wise, should be found to be sufficient, what motive could there be for requiring measures of a different character from those already available? Even if an existing remedy were found to be inefficient, it would not follow that the Government of the United States is bound to devise a remedy of a totally different character, such as a transference of a subject-matter from the judicial to the executive department of the Government, assuming that in a particular case it possessed the power to do so. The duty imposed by the treaty would be fully discharged in devising a measure to render the existing remedy effective.

By the Constitution of the United States, with which I am happy to observe your statement that you are not unfamiliar, the powers of government are distributed among three departments—the executive, the legislative, and the judicial. This distribution of powers is fundamental and can not be disturbed by any of those departments, neither of which is authorized to trench upon the domain of the others. It could not have been the purpose of the intelligent negotiators of the treaty of 1880 to attempt to disregard that fact, nor do I suppose that your Government contemplated such an attempt or even desired it to be made. On the contrary, it was expressly left to the Government of the United States to devise such measures as might be within its power. This view is not affected by the fact, to which you advert, that the American minister in China has from time to time invoked the direct intervention of the Imperial Government for the protection of citizens of the United States in that country. In so doing the American minister has merely followed the course marked out in the treaties in accordance with the system of government prevailing in China. To state, therefore, that a certain measure has been adopted in China is no evidence that it was supposed that the same course of action would be pursued in the United States, where the organization of government is different.

I have observed your statement that you have made careful examination of the volume of "Treaties and Conventions concluded between the United States and other Powers," published in 1889, and that you have not been able to find any such language as that used in the treaty of 1880, or any equivalent to it, in any of the treaties with other nations. I may say that I also am unaware of the existence of a similar form of words in any of the rest of our treaties. I find, however, in article 13 of the treaty of 1846 with New Granada, which is now a subsisting convention between the United States and the Republic of Colombia, a stipulation that the contracting parties will give their "special protection" to the "persons and property of the citizens of each other, leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country." My object in referring to this stipulation is to call attention to the fact that the contracting parties, in engaging to give "special protection" to the persons and property of the citizens of each other, thought fit to specify, as one of the most, if not the most, valuable of rights, that the tribunals of justice should be "open and free to them" for their judicial recourse.

In my note of the 27th ultimo, I had the honor to inform you that I had submitted your complaint to the Attorney-General. I am now in receipt of his reply, which bears date of the 9th instant. He expresses the opinion that the ordinance which you submit is within the prohibition of the fourteenth amendment to the Constitution of the United States, and also in violation of the treaty stipulations of the United States with China, and that for those reasons it is void. He also ad-

vises that the proper mode of determining in an authoritative and effectual way that the order has no validity or force is by application to the courts of the United States in the northern district of California, where full redress can be had.

I am unable to share your apprehensions that it would be difficult to obtain redress in that way. The interests affected by the ordinance are, as you inform me by your note of the 24th ultimo, very considerable, and it is not thought that they will find any obstacle in asserting themselves before the judicial tribunals. In more than one case the courts of the United States in California have maintained the supremacy of the treaties with China against conflicting provisions, not only of the statutes, but also of the constitution of that State. As examples, I may refer to the cases of *In re Ah Fong*, third Sawyer's Reports, page 144, and Parrott's Chinese case in the sixth volume of the same series of reports, page 349.

Accept, sir, etc.,

JAMES G. BLAINE.

Mr. Pung to Mr. Blaine.

CHINESE LEGATION,
Washington, June 23, 1890. (Received June 23.)

SIR: It affords me great pleasure to acknowledge the receipt of the note of the 14th instant, in which you honor me with a further discussion of the scope of article 3 of the treaty of 1880 and of the duty imposed therein upon the Government of the United States.

While I share with you the regret you express that our views on these questions continue to be at variance, I experience great pleasure in being informed of the opinion of your learned colleague, the Attorney-General, that the ordinance of the city of San Francisco, which has occasioned the present correspondence, is not only contrary to the treaty stipulations with China, but also to the Constitution of your country, and, therefore, void. In view of this opinion, and of the further fact that for reasons unknown to me you have not as yet found it convenient to reply to the repeated notes of this legation concerning the broader question of the binding obligation and validity of the treaties celebrated between the two nations, I do not deem it necessary at this time to prolong the discussion of this subordinate subject.

Thanking you for the courteous attention which you have given to my notes respecting it,

I with pleasure renew, etc.,

PUNG KWANG YU.

Mr. Tsui to Mr. Blaine.

CHINESE LEGATION,
Washington, September 14, 1890.

SIR: At a late hour last night I received a telegram from the imperial consul-general at San Francisco, stating that information had been received by him from Chinese residents of Aberdeen, in the State of Washington, that the citizens of that town had notified the Chinese subjects living there that they must leave that place at once; and these

subjects, feeling that their lives and property were in great peril, have appealed to this legation for the immediate protection of the Government of the United States.

Believing that the case is one of urgency, requiring the prompt action of the authorities, I beg that you cause such measures to be taken by telegraph as will secure the Chinese subjects in that locality the full protection to which they are entitled under our treaties, and that injury to life and property may thereby be avoided.

Trusting to be early advised of the steps which may be taken,
I repeat, etc.,

TSUI KWO YIN.

Mr. Wharton to Mr. Tsui.

DEPARTMENT OF STATE,
Washington, September 16, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you inform me that it is reported by the imperial consul-general of San Francisco that the Chinese residents of Aberdeen, in the State of Washington, have been notified by the citizens of that town to quit the place at once, and, in view of the apprehension felt by your countrymen that their lives are in danger, you ask that such measures be taken by telegraph as will suffice to protect Chinese subjects in that locality and avoid injury to life and property.

I have also had the honor to see a telegram received by you this morning and brought to this Department by one of your attachés, which reads as follows:

SAN FRANCISCO, CAL., 15TH.

His Excellency TSUI,
Chinese Legation:

Following telegram just received: "The Aberdeen citizens say our Chinese must go on September 23. Telegraph the Government to have them protected at once. Signed Woo Lee and Chinese at Hoquian, Wash." (No signature.)

In view of these representations, I have hastened to send a telegram to His Excellency the governor of Washington, stating the facts as brought to the notice of this Department and counseling action to the end of preventing any disturbance of order or violation of rights of Chinese subjects established at Aberdeen.

Returning herewith the telegram left at this Department to day,
I beg you, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Tsui.

DEPARTMENT OF STATE,
Washington, September 19, 1890.

SIR: I have the honor to apprise you, in connection with the Department's note of the 16th instant, of the receipt of a telegram from His Excellency Elisha P. Ferry, governor of the State of Washington, saying that he will use every means in his power to prevent any violation of law at Aberdeen.

I avail myself, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Tsui to Mr. Blaine.

CHINESE LEGATION,

Washington, October 1, 1890.

SIR: Under date of March 26 last, I was impelled by an urgent sense of duty to send you a note of some length, citing the notes which my predecessor had addressed to the late Secretary of State and to yourself respecting the status of our treaty relations as affected by the action of the last Congress of your country, and giving some additional reasons why, in my opinion, it was the imperative duty of your Government to furnish an early and comprehensive reply to the several notes of this legation.

It has filled me with wonder that neither an acknowledgment of its receipt, nor a reply thereto, has up to this time been received. Knowing how carefully and courteously you observe all the requirements of diplomatic intercourse, I have not attributed this neglect to any personal choice on your part. I have persuaded myself that your silence has been enforced by some controlling reasons of state which have, in your opinion, made it prudent that you should still defer for a time the answer which my Government has for many months past been very anxious to receive.

I would continue, out of personal regard to you, to exercise patience on the subject if I were permitted to do so. But I am sorry to say that this I can not do. Upon receipt of a copy of my note to you of March 26, 1890, my Government, so fully persuaded of the justice of the representations made by this legation, communicated with His Excellency, Minister Denby, and urged him to present to his Government the lively desire of the Chinese Government for an early reply to these representations, and that steps be taken to undo the wrongs being inflicted on Chinese subjects as a result of the act of October 1, 1888. And I have been instructed by the Tsung-li yamén to likewise again ask that early attention be given to the cited notes of this legation. In addition to this instruction, the losses and injuries being suffered by thousands of my countrymen, on account of the rigorous enforcement of the exclusion law of 1888, impel me to redouble my efforts to secure some redress and restore our treaties to respect and observance.

I beg you, Mr. Secretary, to regard this, my present note, not as an act of embarrassment to you, but as a friendly effort on my part to restore and reaffirm the former cordial relations which have existed between our two countries. The old nation, with its hundreds of millions of people, on the other side of the ocean, extends its hand across the great waters to the young nation in front of it, with its wonderful development in population and resources, and asks for a continuance of friendship and commercial intercourse upon the basis of treaty rights and reciprocal justice. Our sages and statesmen for ages past have taught our nation principles of justice and good faith, which, upon establishing diplomatic relations with the nations of the western world, we found to agree with the code of international law as framed by the writers and statesmen of your country; and having learned, through the disinterested friendship which hitherto had marked the conduct of your Government in its relations to China, to regard your nation as a model in the practice which should control governments in their reciprocal intercourse, we accepted its code of international law; and to this code we appeal in the settlement of the difficulties which have unhappily arisen between us, and which it is the anxious desire of the Im-

perial Government to have adjusted in the speediest manner possible. In the interest, therefore, of our past friendship, and to promote and cement more firmly our good relations, I again communicate to you the respectful request of my Government that the cited notes of this legation may have your early attention, and that I may be favored as promptly as possible with the views and instructions of the Government of the United States.

I improve this opportunity, etc.,

TSUI KWO YIN.

Mr. Blaine to Mr. Tsui.

DEPARTMENT OF STATE,
Washington, October 6, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, in which you recur to the subject of the note addressed by you to the Department on the 26th of March last, to which no formal reply has been made.

I am happy to confirm your surmise that the delay in making such a reply has not been due to any neglect or lack of appreciation of the representations you have made or of the importance of the preservation of the cordial and traditional relations of friendship which have subsisted between our two governments. The questions which you present have been and are now the subject of careful consideration on the part of this Government, and I hope to be able at an early day to convey to you the views of the President in an ample and formal manner.

In communicating to you this expectation, I desire to assure you of my appreciation of the sentiments of amity that pervade the note to which I now have the honor to reply.

Accept, etc.,

JAMES G. BLAINE.

Mr. Tsui to Mr. Blaine.

CHINESE LEGATION,
Washington, December 4, 1890. (Received December 5.)

SIR: From the several notes which have been addressed to your Department by this legation since the passage by the Congress of the United States of the exclusion act of October 1, 1888, it is known to you that my Government has earnestly desired that that honorable body should undo that act of hardship and treaty abrogation. I watched with interest the proceedings of the last session, and at its close it became my unpleasant duty to inform my Government that it had adjourned without taking any action looking to the repeal or modification of the act of 1888.

I am now in receipt of instructions from the Imperial Government, directing me to convey to you the disappointment it has experienced at the intelligence communicated by me, and to express to you the hope that during the session which convened on the 1st instant Congress may take such action as will assure the Imperial Government of the desire of that of the United States to maintain in full force and vigor the treaties entered into between the two nations, and thus renew and strengthen the friendly relations which have so long existed.

I hope that you will not interpret this note into any manifestation of impatience at the nonreceipt of the reply which was promised in your note to me of October 6 last. You will, I am quite sure, understand the natural desire of my Government (which makes it my duty at this time to again address you) to relieve the many thousands of my countrymen from the sad situation in which they have been placed by the passage of the law cited. The records of the custom-house at San Francisco alone show that over 20,000 Chinese subjects who had left their temporary homes and business in the United States, bearing with them, under the seal of the United States, certificates of their right to return, were, in violation of these certificates and of solemn treaty guaranties, absolutely and without notice excluded from the United States by that law. And so severely was that law enforced that those Chinese who were on the high sea at the time it was passed were forbidden to land at San Francisco and were driven back to China. The great pecuniary loss which these Chinese subject shave sustained on account of being excluded from their temporary homes and business in this country has been regarded by my Government as a serious hardship. Besides these, the law has been very oppressive and unjust in its effects upon a still greater number of Chinese subjects. Under the provisions of the treaty of 1880, the Chinese laborers then in the United States were guarantied the right "to go and come of their own free will and accord," but the act of 1888 nullifies this stipulation, and the Chinese laborers are therefore denied the privilege of a visit to their native land, or it must be made at the sacrifice of all their business interests in this country.

In view of the injustice and loss which has been and still is being inflicted by the operations of this law, my Government has felt it necessary that I should again make known to you its earnest desire that something should be done to alleviate the injuries being suffered on account of its passage.

I need hardly add that this representation is not made out of any disposition to aggravate the present unsatisfactory condition of our relations, but with the earnest hope that it may lead to some settlement which will cement our old friendship and create new relations of harmony and freer commercial intercourse.

I improve the opportunity, etc.

TSUI KWO YIN.

COLOMBIA.

Mr. Abbott to Mr. Blaine.

[Extract.]

No. 48.]

LEGATION OF THE UNITED STATES,
Bogota, December 12, 1889. (Received January 13, 1890.)

SIR: The consul at Colon, General Vifquain, has requested that the friendly offices of this legation may be employed in his behalf upon the following state of facts:

Mrs. S. H. Smith, who, I presume, was a citizen of the United States, and who died in Colon, left, *inter alia*, two tenement houses, situated in Colon upon land leased of the Panama Railroad Company. The consul, acting under section 10, article 3, of the consular convention of 1850, undertook to settle her estate. In pursuance thereof, he sold the two houses at auction in July, 1888, and applied the proceeds in settlement of debt.

On October 25, 1889, the local authorities intervened, and the local judge ordered all claims against the estate to be presented before his court and the houses to be sold in 180 days from that date. He, furthermore, put a receiver in possession of the houses and dispossessed the purchaser at auction sale, who was an American citizen. The details of the whole matter may be found in the letter of the consul to me, dated November 7, 1889, to which I refer, and a copy of which I inclose, excepting only the inclosures therein referred to, which are, I presume, on the files of the Department.

The request of the consul is that I apply to this Government to cause a committee to be appointed to examine the claims he has paid, and, on their report that they are correct, to legalize all his doings in the premises.

It seems plain that, if the consul has acted within the law, this Government should not be asked to legalize his doings, but rather a demand as of right should be made for the cessation of all interference by the local authorities.

But, if the consul acted contrary to law or exceeded his authority, then the good offices of this legation may well be employed in his behalf.

It becomes, then, important to decide, before acting in the matter: (1) Whether a consul of the United States has the right to take possession of, inventory, and sell the personal property of a citizen of his country dying in Colombia, under and by virtue of the provisions of section 10, article 3, of the consular convention; and (2) whether the houses in question are real or personal property.

I do not deem myself justified in asking this Government to legalize Mr. Vifquain's acts, without instructions to that effect, as I should thereby admit that our consuls have no rights under the said section of the convention, an admission which might embarrass the Department in case it should hold that our consuls are entitled to settle

estates in such cases. On the other hand, a remonstrance, on the ground of an infringement of treaty stipulations, would as seriously embarrass the Department in case it should hold that under the present laws of Colombia our consuls are not entitled to act in such cases.

I have therefore concluded to submit the matter to the Department for instructions, with as full an explanation of the attitude of this Government and the local laws as I have been able to procure; and I shall await a reply by cablegram, or by mail, as may be deemed necessary.

First. The question is as to a consul's right to settle estates of his countrymen dying here.

This right depends upon the provisions of article 3, section 10, of the convention, which, after defining what a consul may do in such cases, provides as follows:

But consuls shall not discharge these functions in those states whose peculiar legislation may not allow it.

When the convention was made there were no states in Colombia. The country was a centralized Republic, and there was no general law defining the rights of consuls in such cases. The estates of deceased American citizens were settled as were those of Colombians until this convention came into force.

Some years later, about 1858, New Granada became the United States of Colombia, in which were erected a number of partially independent States, which from January 1, 1860, made their own laws upon these and many other matters.

Under date December 14, 1870, Mr. Fish, Secretary of State, in his No. 31 to Mr. Hurlburt, then minister here, directed him to remonstrate against the course of the local authorities in Panama in interfering with the administration by the then consul at that city upon the estate of one J. J. Landerer.

The minister's remonstrance can not be found among the archives, but the long reply of the Government thereto, under date of April 28, 1871, after stating that information had been asked from the Panama authorities, goes on to claim that the whole matter must depend upon the law of that State; that the fact that that State was erected after the making of the convention does not imply, as "insinuated" by our minister in his remonstrance, that its laws can not deprive our consuls of the rights named therein; that Colombia recognizes the right of newly erected States in the United States to make prohibitory laws in this respect, as well as the right of the States existing in 1850, and claims reciprocity; that, "accepted this principle (of reciprocity), it is clear that the word 'states,' which is made use of in the convention, does not refer solely to those of North America, even although Colombia (then New Granada) was not publicly divided in sections of that name, and even although this part of legislation was not conceded to them." Then follows an argument upon the tense of the word "permitir," *i. e.*, "allow," and the conclusion that "it appears beyond doubt that it was sought to express the desire of the contracting parties to leave to the states or sections of both Republics complete liberty to permit consuls to exercise the powers referred to or to deprive them of such powers." The note also states that the laws of Panama then existing conferred upon the courts alone the settlement of estates, be the deceased a foreigner or a native.

I can find no further correspondence in this case, and so do not know the result, and this is the only case of which I have found any trace. I mention it as possibly throwing some light upon the probable attitude of Colombia now.

In 1885 the United States of Colombia became the Republic of Colombia, the States being degraded to departments, and deprived of the power to legislate, except upon minor matters. The national law in force in the whole Republic since July 22, 1887, provides that, if a deceased person shall leave foreign heirs, the consul of the nation of these heirs shall have the right to name the "curador," who shall have the custody and administration of the property.

I inclose a copy and translation of a written statement of a Bogota lawyer, in which this law appears, together with its effect, leaving out the question of public treaties.

I have consulted two lawyers who stand high in the profession, and they inform me that a "curador" is more or less what we call an administrator; that the estates of all foreigners are, outside of treaty stipulations, to be settled in the manner indicated in said law; and that foreign consuls have no other rights than that of nominating the "curador."

Second. The second question is as to the character of the houses, whether they are real or personal estate. If they are real estate, then the consul has exceeded his authority.

On this point I inclose a copy and translation of the opinion of Messrs. Escobar & Gutierrez, lawyers, in relation to the same, in which the law in relation to the matter appears.

I have written Consul Vifquain to forward to the Department at once a statement of the terms of the lease under which the houses are permitted to stand upon the land of the railroad company.

I will add that the first law in New Granada upon the rights of consuls in such cases was passed, substantially, in the form in which it exists in the civil code of Cundinamarca, as noted in inclosure No. 2, on May 29, 1850, 25 days after the signing of the consular convention, and continued to be the law of the Republic up to January 1, 1860. So that the statement in said inclosure, that the Spanish law was that in force up to that date, must be somewhat modified.

The question as to the houses has never been raised in these courts, so far as my lawyers know, and, if it had been, it would throw no light upon the matter, as the courts are not bound by precedent.

I trust that the suggestions herein made may be useful in the consideration of the case presented by the consul.

I have, etc.,

JOHN T. ABBOTT.

[Inclosure 1 in No. 48.]

Mr. Vifquain to Mr. Abbott.

CONSULATE OF THE UNITED STATES,
Colon, November 7, 1889.

SIR: I respectfully submit the following to your consideration:

In July, 1888, I ordered sold at public auction by licensed auctioneers, after duly advertising, the houses belonging to the estate of the late Mrs. S. H. Smith. I had some doubt as to my right to selling [*sic*] those houses, yet, as claims were coming in at the consulate thick and fast, and there being no ready cash on hand, I wrote to the Department of State my dispatch No. 36 (inclosure No. 1), and I received in answer dispatch No. 30 (inclosure No. 2).

This dispatch from the State Department means that, if, in my judgment, I deemed it best for the estate to sell, that I should sell, and *vice versa*. Owing to the impending collapse of the canal, which was visible enough then, I deemed it best to sell, and so notified the Department of State in my dispatch No. 42 (inclosure No. 3).

Evidently, nothing in the dispatch No. 30 of the Department of State intimated to me that I had not the right to sell; so I sold for \$5,500 (Colombian silver) to Mr. Potevin, an American citizen.

There was no will left, and, to my knowledge then, no heirs, and my belief was that the United States became the heir.

Now, then, the prefect, the judge, and everybody knew that I was going to sell the houses through the instrumentality of "licensed Colombian auctioneers." This was notorious, and yet not the slightest word to me by them that I had not the right to sell. On the contrary, when I took possession of the houses, I asked the judge to protect me in my rights in case they were disputed, and he told me he would. The prefect told me that the tenants of the houses were compelled to pay the rent to Mr. Potevin. Taxes were assessed against Mr. Potevin, and he paid them. We even paid the 6 per cent. mil. required by law to be paid for transfers of property. All this was received; not a word said by anybody. Can I not, then, claim the tacit consent of the authorities to sell, even though I had not the legal right to do so?

Thus great was my surprise when last February, nearly 8 months after Mr. Potevin had been in peaceable possession, collecting rents and paying taxes, the prefect of this place, one J. M. Pasos, "denounces" the property as vacant and demanding possession. Property by this time had become depreciated full 100 per cent. [sic].

Well, all of a sudden I received news, last May, that there were heirs, and I at once notified the judge, one E. Morales, to that effect. The judge told me "all right," and at once all proceedings were stopped until the heirs put in an appearance. I wrote to the United States to secure proper identification or presence of the heirs, but to this date I have had, as yet, no reply, yet I have some evidence that there are heirs. They live in Sacramento, Cal., and I have before me an informal copy of a power of attorney given by them to one James M. Pugh, a banker in Osceola, Mo., to guard the interest of the heirs in the real estate left by Mrs. S. H. Smith and lying in that part of the State of Missouri.

However, the judge got tired of waiting, and, without consulting me or advising me, he issued a decree on October 25 last, ordering all the creditors of the estate to present their claims to his examination, giving them 180 days to do so, at the expiration of which time the houses would be sold by the court, and he at once put a receiver in charge, thus fully dispossessing Mr. Potevin.

As soon as I learned of this, I called upon the judge in relation to his decree. I told him I had paid the creditors after a most rigid scrutiny of their claims; that I understood this to be one of my prerogatives as consul; that he was aware I had fought some bogus claims in his own court, and that I had won my case; and that I had paid the creditors with the moneys received by me through the sale of the houses to Mr. Potevin; that I had paid off a \$4,000 (Colombian silver) mortgage on the houses and sent to the Treasury of the United States the 5 per cent. [sic] proceeds of the sales, in accordance with law; and that I had duplicate receipts for every payment made; that there were no more legal claims to my knowledge, and that I had acted in good faith all the way through.

He answered that he knew it, but that the only way to legalize all that I had done was for every creditor to put in a petition into his court praying that I might be deemed the legal claimant for each credit; that at the end of 6 months he would sell the houses; and that then I would be paid the moneys I had disbursed.

This, indeed, was a doubtful way for me to get the moneys I had paid, since the houses would not sell for one-half of what I had sold them for, besides placing in jeopardy the title of Mr. Potevin to the property. And I told him so; told him also that it was the most extraordinary thing on the part of the court and of the authorities "to be so kind" as to allow me to pay off the mortgage on the property and the creditors of the estate, and when I had done with all, and nearly 1 year afterwards, he and the authorities come in to claim the clear title to everything.

I further informed him that I would at once write to my ambassador at Bogota, that the case might be placed by him before the proper cabinet officer, or even before the President, with the request that a committee be appointed to examine the claims I had paid, and, after examination, provided they were found correct, as they will be, to have an order from his court legalizing my sale and all.

I suggest to you for that committee Mr. E. Morales, the judge himself, and Mr. Tracy Robinson, an American citizen here, the two to select another among the foreign consuls here.

This is about the only way I see out of this without having recourse to serious diplomatic proceedings.

To my mind, this seems to be a great wrong on the part of the authorities here. I believe I have acted legally. Surely, I have acted in accordance with instructions from the Department; but, even though my action had not been just exactly in accordance with law, why is it that no notice of my action is taken until I am through with it all and nearly 1 year afterwards? Can I not, from their silence, claim tacit consent?

I respectfully refer you to article XII of the treaty of 1846: * * * "and, their representatives, being citizens of the other party, shall succeed to their said personal goods or real estate, whether by testament or *ab intestato*, and they may take possession thereof." I also respectfully refer you to Wharton's International Law Digest, vol. 1, p. 782, Marcy to Aspinwall; and also p. 785, same volume, Cadwalader to Hopkins.

I very much regret to give you this trouble, but I can see no way to an agreeable solution of this question without your intervention, and I hope you will at your early convenience take steps to satisfactorily arrange this, otherwise it will be a virtual confiscation of this property, as well as a very great loss to me.

The settlements of estates are [sic] of no profit to a consul; they are very vexatious. I have done what the Colombian law requires shall be done—paid debts; the whole affair has been as open as daylight. I did not attempt to evade the laws. Moreover, there are the heirs in California, who are not even recognized by the court here. The claims I paid were looked into with much greater care than if the money had been my own, and the creditors were paid in full, what is seldom the case when courts take part in the proceedings.

I hope soon to hear that the proper cabinet officer in Bogota will order Judge E. Morales to look into my accounts and to legalize my sale after finding things, as they should be, correct. My plan satisfies the judge.

I am, etc.,

VICTOR VIFQUAIN.

[Inclosure No. 1.]

Mr. Vifquain to Mr. Rives.

No. 36.]

CONSULATE OF THE UNITED STATES,
Colon, June 12, 1888. (Received June 25.)

SIR: Heavy claims are presented to me against the estate of the late Mrs. S. H. Smith, and no money on hand to meet them. The actual property left here consists of three houses worth some \$10,000. These houses are built on lots leased from the Panama Railroad. There is no character of real estate attached to the lands on which the houses are built, so far as the late Mrs. Smith is concerned, since the land can not be sold by the railroad company; it is leased yearly at a rental of \$750 American gold. Yet these houses are tenements. They are of a perishable nature and have been so pronounced by the most respectable of merchants here. Moreover, property here is depreciating, and it costs money to keep houses in good repair.

I respectfully ask whether, under the circumstances, I can proceed to sell these houses, it being certainly the best thing that can be done with them?

I am, etc.,

VICTOR VIFQUAIN.

[Inclosure No. 2.]

Mr. Rives to Mr. Vifquain.

No. 30.]

DEPARTMENT OF STATE,
Washington, June 28, 1888.

SIR: I have to acknowledge the receipt of your dispatch No. 36, dated June 12, 1888, relating to the estate of the late Mrs. S. H. Smith.

You must use your best judgment in the case, as the facts are much more completely known to you than they can be to the Department.

It may, however, be suggested that perhaps it might be well to delay action for a while until it be ascertained definitely whether Mrs. Smith did not leave a will. The fact that none was found at Colon does not establish that she made none, for one may yet be found in the United States. Should such a will be produced and proved, and the executor qualify, it would relieve you from considerable embarrassment and responsibility.

Again, it is understood here that houses at Colon are usually frail and inexpensive structures, costing little in the first instance, but producing in rent a large annual percentage. These facts would seem to lead to the conclusion that it would be well to postpone the sale of the houses as long as practicable.

With regard to claims against the estate, it will be well to scrutinize them with the utmost care, as all the circumstances point to the suspicion, at least, that dishonest demands are likely to be trumped up, and that Mrs. Smith was not likely to leave large debts unpaid.

All these, you will understand, are but suggestions for your guidance; and while the Department strongly recommends a policy of great caution and deliberation in this case, it can not undertake to give you definite instructions.

I am, etc.,

G. L. RIVES,
Assistant Secretary.

[Inclosure No. 3.]

Mr. Visquain to Mr. Rives.

No. 42.]

CONSULATE OF THE UNITED STATES,
Colon, July 21, 1888. (Received August 3.)

SIR: Your dispatch No. 30, dated June 28, relating to the estate of Mrs. S. H. Smith, was duly received; and, inasmuch as you leave everything discretionary with me, I will sell the houses, and for the following reasons:

The tenure of the lots by the Panama Railroad Company is uncertain. They may at any day pass into the hands of the Government. What the value of those lots will then be is a matter of conjecture; the rent, ground rent, being liable to enhance, while that of the houses decreases.

Then, also, there is a \$4,000 mortgage, with big interest, on the houses. Then, again, it is quite an expensive affair to keep the houses in good repair, to pay the taxes and ground rent, not speaking of the trouble to collect rents, all of which the consul is responsible for without the least compensation.

You are rightly informed as to the high rents here, yet they are declining rapidly; but you are not rightly informed as to the character of the houses, nor as to that of the deceased. The former cost nearly \$20,000; the latter was a most careless person in the management of her business. There is no will; the deceased herself admitted this before her death.

Your obedient servant,

VICTOR VISQUAIN.
United States Consul.

[Inclosure 2 in No. 48.—Translation.]

Messrs. Gutierrez & Escobar to Mr. Abbott.

BOGOTA, December 11, 1890.

SIR: We are about to comply with the desire you were pleased to express to us verbally, that we should explain to you what there may be relative to the rights which foreign consuls formerly had, and now have, in this country as to the estates of their fellow-citizens, according to the ordinary laws solely, that is, laying aside the respective public treaties. We will refer especially to the former States, now departments, of Cundinamarca and Tollima.

Up to December 31, 1859, the Spanish legislation as it existed at the time of the independence was in force in those States in civil matters.

From January 1, 1860, until July 22, 1887, the civil code of Cundinamarca was in force in said departments, which contained these provisions:

"Article 595. If the heirs of the deceased upon whose estate it is necessary to appoint an administrator (*curador*) may be foreigners not residing in the State of Cundinamarca, the consul or vice-consul of the nation of these heirs, if there is one in the place of opening of the succession, may name the administrator or administrators (*curador* or *curadores*), who shall have the custody and administration of the property.

"Article 596. The judge shall grant the administration (*curaduria*) to the administrator or administrators proposed by the consul or vice-consul if they be fit persons, and on the petition of the creditors or other persons interested in the estates another or others to [act with] the administrator or administrators, according to the amounts and situation of the property which may compose the inheritance.

"Article 1067. When a foreigner dies in the territory of the State without leaving a will nor heirs, the property of the estate shall be delivered to the consul or vice-consul of the nation to which the deceased belonged; but, that this may be done, it shall be necessary:

"(1) That 1 year shall have passed after giving notice of the death of the foreigners by means of three consecutive printed publications, and no person having presented himself who could, according to the laws of Cundinamarca, succeed to the estate of the deceased person or take possession of the property as executor under the will. But, whenever such person shall present himself, he shall have the right, if

there be no legal objection, to take possession of the estate, although the same may have passed into the hands of the respective consul or vice-consul, or may be subject to the disposition of the competent court, or under the care of an administrator of the unoccupied inheritance (*herencia yacente*).

"(2) That the judge having jurisdiction in the manner provided for in this code, and with the assistance of the consul or vice-consul, if there be one in the place, shall make a judicial inventory of the property of the deceased and see that the legal fees and taxes are paid and that the debts due from the deceased to citizens of Cundinamarca or of any other of the States of the Confederation are satisfied.

"There shall be made two certified copies of the judicial proceedings, which shall be sent to the minister of foreign affairs of the Government of the Confederation through the government of the State.

"Article 1068. The consuls and vice-consuls authorized to act as such in the territory of the State by the Government of the Confederation, to whom this code alone refers, in respect to the estates of their deceased fellow-citizens dying intestate in the State of Cundinamarca without leaving heirs in said State, may exercise the following functions:

"(1) To place their seals upon such documents and effects as the judge, by virtue of his office or at the solicitation of interested parties, may have previously sealed.

"(2) To assist in appraisals, inventories, and other judicial acts in the settlement of the estate which the succession may require.

"(3) To nominate an administrator or administrators, who shall have the custody and administration of the property of the deceased, as provided in articles 595 and 596.

"The administrator or administrators to whom the judge may have granted the administration shall take charge of the same, and, in consequence thereof, shall have the care and administration of the estate, including books and papers, and thereafter the consul or vice-consul shall not have the power to demand the delivery to himself of the property of the estate, nor to intervene in the matter of the administration of such property, except that he shall have the right to demand that the administrator or administrators shall be held responsible, conformably to the laws of the State, for the abuse or the mal-performance of their trust.

"Article 1069. In all cases of which the preceding article treats, and especially in the making of the inventory, and in what relates to the security of the estate of the deceased, and to the rights of the Confederation or the State as to such property, * * * there shall be observed the laws of the State, so far as the same are not opposed to public treaties celebrated by the Government of the Confederation which now are, or which may hereafter be, in force in the territory of the State."

The national civil code (*código civil nacional*) went into effect July 22, 1887.

This code contains nothing analogous to articles 1067, 1068, and 1069 of the civil code of Cundinamarca above quoted.

Article 570 of the national civil code says:

"If the deceased upon whose estate it is necessary to appoint an administrator shall have foreign heirs, the consul of the nation of such heirs shall have the right to nominate the administrator or administrators, who may have the custody and administration of the property."

Article 571 of the national code is the same as article 596 of that of Cundinamarca, with the difference that the former mentions only the consul and not the vice-consul.

According to articles 600, 601, 602, and 603 of the code of Cundinamarca, which are exactly the same as articles 575, 576, 577, and 578 of the national code, the *curadores* of property had no further powers than those of mere custody and preservation, those for the collection of the credits and the payment of the debts of those they represent, the alienation of perishable personal property, the alienation of personal property pertaining to the ordinary course of the business of the deceased, and the carrying on of actions at law and defenses of the same. Administrators of property can do no other acts without previous judicial authorization granted on account of proved necessity or utility.

We are, sir, etc.,

GUTIERREZ & ESCOBAR.

[Inclosure 3 in No. 48.—Translation.]

Messrs. Gutierrez & Escobar to Mr. Abbott.

BOGOTA, December 12, 1889.

SIR: We have studied with care the interesting legal question about which you have been pleased to consult us, and proceed to express briefly our opinion upon it.

The question is, whether a building constructed by a lessee upon leased land should be considered, as to the said lessee, personal or real estate.

According to the general rule contained in article 656 of our civil code, things are real estate (*inmuebles*) which can not be transported from one place to another, as lands and mines, and "those things which adhere permanently to them, as buildings, trees."

Buildings are, then, according to that, real estate (*inmuebles*) by their nature.

But it is a principle of jurisprudence that property by its nature immovable ceases to be real estate and is converted into personal property when it is considered, not in its actual state of union with the ground, but in the future state of distinct individuality which separation will give it, as when, for example, it is considered "as having to be demolished" (*como habiendo de ser demolido*), and therefore it is looked upon, not as a house, but as stones, wood, iron, etc.

So is regarded, as to the lessee, the building constructed by him upon leased land; and the reason for this is that the constructor does not in this case have a right to the building itself, as such, but rather the right to separate and carry away the materials which compose it in case the lessor may not be disposed to allow him what the materials may be worth, considering them as having been separated.

The cardinal point which has just been expressed, once noted, the question is transformed into this other: Does the right of the lessee constructor in the building pertain to personal or real estate?

According to article 667 of the civil code, rights and choses in action are considered personal property or real estate, according to the nature of the thing with which they are or are not to be used. So the right of usufruct upon real estate is real; so the right of the buyer to a delivery to him of a farm which he has purchased is real; and the right of a lender of money to its repayment is personal.

In our system (*derecho*) there is positive law outlined in the ancient maxim of Roman jurisprudence: "Actio quæ tendit ad mobile, mobilis est, actio quæ tendit ad immobile est immobilis."

In order to apply this rule, or rather in order to understand what is the object to which the right pertains, the proceeding is very simple, it being sufficient to inquire what it is that the owner or creditor can demand, or the object whose delivery or granting (*prestación*) the "demandee" can be compelled to make. If the demandant can compel the delivery of real estate, his right is real; if he can only demand the delivery of personal property, his right is personal.

Applying this rule, it will be asked, then, in the present case, what can the lessee constructor require of the lessor, and what can the latter be compelled to deliver to the former?

The materials of the building, or their value, considering them as having been separated, and as both things are personal property, it is manifest that the right of the lessee has also this character.

That the lessee has no other right than that of carrying away the materials of the building, if the lessor does not wish to allow him what they would be worth after separation, is a thing about which there is no doubt, because the building which is not necessary to the preservation of the thing leased, but which increases its market value is evidently an improvement, and that is the rule given for "improvements" in article 1994 of the civil code.

In confirmation of the above doctrine, we quote below the opinion of Demolombe, who is, perhaps, the most profound of the commentators upon the French civil code, from which ours is taken.

[NOTE.—I omit the translation of the quotation from Demolombe.—J. T. A.]

As a logical consequence of this doctrine, Demolombe concludes that when the constructor assigns his lease to a third person, with a right to the buildings which he has constructed, the object of the assignment is necessarily personal. But he notes that the court of cassation of France has decided to the contrary in numerous judgments.

Notwithstanding, Fuzier-Herman, in a later work than that of Demolombe above cited, entitled "Codes Annotés," after referring to the decisions of the court of cassation upon this subject, establishes clearly that in order that the right of the lessee to the buildings constructed by him upon leased ground, and therefore the assignment of the right, may have the character of real estate, it is necessary that the lessor shall have renounced his right of "accession," that is, the right to acquire the property in said buildings at the expiration of the lease (a circumstance which does not probably exist in the case which interests you), and that, lacking that renunciation, the buildings constructed by the lessee upon the leased land have, so far as relates to him (the lessee), the character of personal property, and can not, therefore, be hypothecated by the builder. (Vol. 1, p. 643.)

Your obedient servants,

GUTIERREZ & ESCOBAR.

Mr. Blaine to Mr. Abbott.

No. 42.]

DEPARTMENT OF STATE,
Washington, January 9, 1890.

SIR: Complaints having reached the Department in regard to the seizure of American vessels on the San Blas coast for alleged violation of the customs laws of Colombia, and desiring to possess the fullest possible information upon the subject, I cabled you on the 8th instant to make an immediate examination of the customs laws affecting that locality and of the difficulties said to have arisen there and to report fully thereon.

I am, etc.,

JAMES G. BLAINE.

Mr. Abbott to Mr. Blaine.

No. 54.]

LEGATION OF THE UNITED STATES,
Bogota, January 11, 1890. (Received February 17.)

SIR: Your cablegram dated January 8 was duly received on the evening of that day.

Up to the date of your telegram I had no knowledge of any difficulties upon the San Blas coast except the seizure of the British schooner *Pearl*, said to have been found trading in closed ports, for which she had not cleared and in which she could not legally trade. On inquiry I find that one other schooner, flying the Dominican flag, has also been captured. The Government disclaims any knowledge of other seizures.

Acting upon the supposition that some vessel of the United States has been taken by the Colombian man-of-war *La Popa*, I have prepared the following statement of the law applicable to the case.

The *codigo fiscal* recognizes three classes of ports, viz, free ports, ports *habilitados*, and ports not *habilitados*.

Importations are not permitted, except into free ports, and ports *habilitados* being expressly prohibited into ports not *habilitados*. Commerce between free ports and ports not *habilitados* is expressly prohibited. Coast trade between ports *habilitados* and ports not *habilitados* is permitted to vessels of all nationalities which may carry merchandise of the country or foreign merchandise on which the regular import duties have been paid in some port *habilitado*. Every port *habilitado* has a custom-house.

Between the free port of Colon and the port Carthagena, which is *habilitado* there are no ports of entry, all being ports not *habilitados*.

Within those limits lies what is known as the San Blas coast. Consequently, none of its ports are either free or *habilitados* and all direct importations are prohibited and clearly illegal. If made, the vessel and cargo are subject to confiscation. Consuls certifying to invoices to these ports are liable to fine.

Notwithstanding all this, the Columbian consul in New York has—to how great an extent I can not say—granted the usual papers to vessels clearing from that port for San Blas, and perhaps for other ports not *habilitados*. This action is clearly contrary to law. The evidence, as to the length of time during which this custom has prevailed is somewhat conflicting, but I have good reason to believe that this Government is properly chargeable with knowledge of the fact and has not seen fit to stop the practice until the case of the *Pearl* was presented to its notice by the British chargé d'affaires.

Definite orders to issue no more such papers have recently been given to the consul, and it is quite possible that his illegal practice, perhaps begun when this coast was of less importance than now, had escaped the notice of the present officials until the case of the *Pearl* arose.

The opinion of the minister of foreign affairs *ad interim*, and of the President of the Republic, is decidedly in favor of releasing any boat which may have been captured having consular invoices of the New York consul giving as her destination any of the ports not *habilitados*. The minister of foreign affairs has been absent for a month, and his opinion is not known. The minister of hacienda, under whose jurisdiction are custom-house matters, is also absent. It can hardly be doubted, however, that they will coincide with the President and minister *ad interim*.

There is more than the usual activity in executing the laws upon the San Blas coast for two reasons—the illicit commerce is believed to be increasing, and the Government naturally desires to receive the revenues therefrom. It is furthermore desired to prevent any importations of weapons of war.

I am of opinion that the Government is perfectly justified in preventing, in the customary manner, this illicit trade. But I do not see how it can for a moment justify the seizure of vessels allowed to clear for unauthorized ports by the express permission of a Colombian consul, nor do I anticipate that any serious objection to release vessels so seized, will be made by this Government.

I am, etc.,

JOHN T. ABBOTT.

Mr. Abbott to Mr. Blaine.

No. 57.]

LEGATION OF THE UNITED STATES,
Bogota, January 20, 1890. (Received February 14.)

SIR: I notice in the New York papers of December 24, just received, that the American schooners *Willie* and *Julian* have been seized by the Colombian cruiser *La Popa* and conducted to Carthagena for infringement of the customs laws.

The article states that the owners of the schooners had, by advice of the Colombian consul in New York, obtained a special permit from the authorities at Colon to trade upon the San Blas coast, paying therefor \$50.

I have made diligent search and can find no provision of law authorizing any such proceeding. The minister of foreign affairs informs me that there is no such law or custom.

As I wrote you in my former dispatch on the subject, it is impossible to carry on a legal traffic with San Blas until after a vessel has regularly entered a port *habilitado*, as, for instance, Carthagena, and paid the regular import duties. The law is reasonable and necessary to prevent smuggling.

Further inquiry at the office of the hacienda discloses that the Colombian consul in New York telegraphed to the minister of hacienda here that he had dispatched two American schooners to Colon for traffic on the San Blas coast. The minister immediately answered, forbidding such action in the future. He also ordered the schooners to be taken, on their arrival at Colon, to Carthagena for the purpose of collecting the regular customs dues, on the payment of which they were to be allowed the usual permission to trade upon that coast.

This information comes directly from the ministry of hacienda.

There seems to be not the least disposition to confiscate these schooners, and I presume they have ere this been released. If not, there must be some fault on the part either of the owners themselves or of the subordinate Colombian officials.

I expect to write further details by the next mail, but, owing to the slowness with which news travels here, there may be further delay in receiving them.

I am, etc.,

JOHN T. ABBOTT.

Mr. Abbott to Mr. Blaine.

[Extract.]

No. 65.]

LEGATION OF THE UNITED STATES,
Bogota, February 1, 1890. (Received February 25.)

SIR: The situation in respect to the difficulties on the San Blas coast remains the same as noted in my No. 57 of the 20th ultimo, except that notice has arrived of the seizure of a Colombian schooner engaged in illicit trade. No other official information has been received, and it is not known, except from the New York papers of December 24 and 26, what has been done with the *Julian* and *Willie*, nor, indeed, whether they have been seized or not.

A copy of the New York Herald of December 31 has also been received, with an account of the warlike demonstration of the schooner *Geo. W. Whitford*.

The owner is represented as saying that the captain has been instructed to comply with all the customary rules and regulations of the country and to take out his trading license at the port of Colon, etc.

As I wrote before, I have been able to find no trace of any law authorizing the issue of any such license. The granting of such documents is without legal warrant and contrary to the spirit and reason of the law. If they could be given, they would defeat entirely the purpose for which the law was framed. It is possible, and, I suppose, from what the owners and captains are reported to have said, true, that such licenses have been given by some official in Colon. If so, the act was illegal and served no legitimate purpose.

The laws and decrees of Colombia are contained in so many different books and *diarios oficiales* that one always feels more or less uncertainty in making any statement in regard to them. I have, however, made a careful personal search, only now completed. I am a little late in reporting, but felt that I could not safely act more expeditiously. I have not hesitated to avail myself of the freely offered aid of the Government, the great familiarity with the laws possessed by the German minister, and the researches of the British chargé made in the case of the *Pearl*, in addition to which I have taken good legal advice. Nothing has been found which gives even a colorable right to carry on direct traffic upon the San Blas coast. The laws are general and apply as much to Colombians as to foreigners.

I beg leave to submit a more complete statement of the laws relative to the matter than the limited time at my disposal permitted me to do in my No. 54 of the 11th ultimo. I also send translations of the most important provisions. I have examined with care all changes made

since the passage of the laws, but have not included immaterial changes herein.

The fiscal code of the United States of Colombia was enacted May 22, 1873, and went into effect January 1, 1874. Upon the change of the constitution the same code, with such changes and modifications as had been made since its enactment by laws and decrees, was continued in force by the law 57 of April 15, 1887. So that from 1874 to the present time the law has been well known and duly published to the world.

By its provisions direct importations to places not ports of entry, among which are and always have been those of the San Blas coast, are clearly and specifically prohibited, as well as all commerce between the free ports and places not ports of entry.

The free ports are named in the code and include not only Colon and Panama, but other free territory. The executive power is authorized to permit or prohibit direct importation into the free ports, except those of Colon and Panama, which are always free, and to establish regulations for trade in the free ports and territory and in the ports and territory which are not free in order to prevent smuggling.

In execution of this power, the President, on the 23d day of June, 1883, issued decree No. 638* of that year forbidding direct importation to all the free ports, except, of course, Panama and Colon, and reiterating, quite unnecessarily, I think, the provisions of the fiscal code prohibiting commerce between free ports and places not ports of entry, so that the owners of the *Julian* and *Willie* are not victims of this decree, because the law prohibiting direct importations to places not ports of entry and trade between free ports and places not ports of entry does not depend upon this decree, and had in 1883 been in force since January 1, 1874, as it has been even to this date.

As I understand the case, schooners have been dispatched by Señor Calderón, the Colombian consul, against the well-known officially published laws of his country, and some official in Colon, also contrary to those laws, has granted trading licenses for the San Blas coast. Whether the owners themselves knew the laws or not, they were engaged in illicit trade, the only excuse for which arises from the illegal acts of subordinate Colombian officials. This excuse, I think, ought to prevail, and, in my opinion, will induce this Government to treat the matter in a conciliatory and friendly way and release the schooners if it shall appear that they are still in custody. As I have neither instructions nor definite information, I have done nothing more than inform myself as to the laws and gather all information possible.

I am not yet quite certain that the present officials have had any knowledge of the course pursued by Señor Calderón until the seizure of the *Pearl*.

I feel quite confident, however, that they were entirely ignorant of the licenses issued at Colon until the arrival of the New York papers of the 24th ultimo.

By our treaty the coast trade of the contracting parties may be regulated by each as it sees fit.

There seems to be no direct provision of law authorizing, in terms, a foreign vessel to enter Carthagena, pay her duties, and proceed to the San Blas coast. Nor is there any prohibition of such act. The laws imply it, however, the foreign minister asserts it, and the minister of hacienda says that he issued orders to permit the *Julian* and *Willie*, or two schooners which are supposed to be the ones named, to proceed on

their voyage after such payment. Nevertheless, there seems to be some indefiniteness or lack of definite knowledge about this point, which, however, is probably not just now important.

Since writing the above I have again applied to the minister of hacienda for a definite statement of the law in this matter. His reply in writing is as follows:

The boat should be dispatched for importation to Carthagena, and subsequently to San Blas for *comercio costanero*.

I shall make immediate report when official news of seizures arrives. I have, etc.,

JOHN T. ABBOTT.

[Inclosure 1 in No. 65.—Translation.]

Extracts from the codigo fiscal of Colombia which went into effect January 1, 1874.

TITLE 3.—Chapter 1.

ART. 8. The custom-houses of the Republic have for their object the administration of the imposts which the law establishes upon foreign merchandise at its importation and upon the vessels which may enter the ports.

ART. 9. The commercial operations subject to the administration of the custom-houses are classified as follows:

(1) Importation, which consists in the introduction of foreign merchandise for the consumption of the Republic.

(2) Exportation, which consists in sending its products from the Republic to foreign countries.

(3) Transit, which consists in the passage of foreign merchandise through the territory of the Republic to another country.

(4) Coasting trade (*cabotage* *), which consists in the traffic which is carried on by sea in foreign merchandise, lawfully imported, which has paid the legal duties between the ports of entry of the Republic.

(5) Deposit, which consists in storing foreign merchandise introduced for transit or reexportation in the warehouses of a custom-house while these operations are being carried into effect.

(6) The coasting commerce (*el comercio costanero*) is that carried on by every kind of vessel between the ports of entry of the Republic and places not ports of entry (*los no habilitados*), in the transportation of the products of the country or foreign merchandise which has paid the legal import duties.

ART. 10. Importation is permitted only into free ports and ports of entry (*habilitados*). Transit only through free ports and the ports of entry of Cucuta, with destination to Venezuela.

Deposit is only permitted ordinarily in the custom-house of Cucuta. In the other custom-houses it may be allowed by exception in the cases mentioned in article 81 of this code.

Exportation will follow the rules laid down in articles 195 to 205, 268 to 272, of this code.

ART. 11. The operation defined by article 9 shall be executed through legally constituted ports of entry, their execution being expressly prohibited through places not ports of entry (*no habilitado*), except as provided in the preceding article, and except, also, as provided by article 208 in respect to exportation.

ART. 12. Commerce between free ports and places not ports of entry is absolutely prohibited. Consequently, both the ship or smaller boat which may carry merchandise from a free port to a place not a port of entry, as well as the merchandise carried, shall be subject to the penalties established by clauses 2 and 3 of article 326 of this code.

The captain of the ship or person (*patron*) in charge of the smaller boat, his accomplices, aiders, and abettors (*encombradores*), shall each be fined by competent authority \$200 and imprisoned from 2 to 4 months.

* Colombian laws divide what is known to our system under the general term of "coasting trade" into *cabotage* and *el comercio costanero*, as defined in clauses 4 and 6 *infra*.

Paragraph.—This penalty shall be inflicted, not only when the boat may be surprised loading, unloading, or carrying merchandise, but also when, after such proceedings have taken place, the act has been denounced before some national employé and fully proved in a judicial trial.

ART. 13. Merchandise is also declared to be contraband when found in a vessel surprised on the high seas, in a roadstead, or inlet, or in a port where there is no custom-house, having one or more vessels about the same (of any size or description) or tied to its side which may not belong to the same, unless sent by permission of the chief officer of the custom-house.

The ship itself, the small boats around it (*embarcaciones*), the captain, master, and his accomplices and aiders, shall be subject to the penalties established by article 12 of this code.

ART. 14. Commerce of the coasting trade (*cabotage*) and coasting commerce (*costanero*) with foreign merchandise from places not ports of entry to ports of entry is also prohibited.

ART. 15. Coasting trade (*cabotage*) is also prohibited in vessels which carry merchandise for importation or exportation.

ART. 16. [Contains a list of the ports of entry, which includes no place on the San Blas coast.]

ART. 17. [Contains a list of free ports, in which no place on the San Blas coast is included.]

ART. 22. Commerce from free ports of entry shall be treated as foreign commerce.

ART. 23. There shall be a custom-house in every port of entry.

ART. 32. The executive power is permanently authorized to establish the following regulations:

§ 2. To permit or prohibit the importation of foreign merchandise into the ports or territories which existing laws may have declared free, except the ports of Panama and Colon.

§ 5. To establish the formalities to be observed in free ports and in ports and territories which are not free in order to prevent smuggling.

§ 10. To prohibit reëxportation or coasting trade (*cabotage*) by the same vessels which bring the merchandise, unless said acts may be done in a different voyage from that in which the importation was made.

ART. 51. When it happens that any document certified to by a consul is not in the prescribed form, said functionary is liable to a fine equal to double the fee for said document.

ART. 302. All foreign merchandise may be carried from one port of entry to another or from a port of entry to a place not a port of entry, on the seacoast, after the import duties have been paid or secured on said merchandise.

ART. 304. Permission to load and proceed from one port to another must be in writing from the chief customs officer, who shall take into account the prohibition of article 202, and after a visit and thorough inspection of the vessel's hold.

ART. 316. The provisions of articles 303 to 307 and of 310 are extended to vessels carrying foreign merchandise imported into ports of entry (*habilitados*) destined for ports on the coast not ports of entry (*no habilitados*) for foreign merchandise.

ART. 325. The offenses connected with the commercial operations of custom-houses are enumerated in the various preceding articles, and also in the following :

§ 3. The discharge, loading, or transportation of foreign merchandise for coast trade, either for *cabotage* or for reëxportation made at places not ports of entry or at points or at hours not authorized, or without the proper documents.

ART. 331. When deposits of foreign merchandise are discovered in houses, huts, ranches, or other places on the coast which may be suspected, on account of their proximity to a port, such merchandise shall be dealt with as provided for in section 2, article 325, unless its legal introduction can be established.

[Inclosure 2 in No. 65.—Translation.]

ARTICLE 15. The offenses defined in article 325 of the fiscal code, or of that which replaces it in the custom-house code, shall be punished as follows:

In the second and third cases loss (confiscation) of the merchandise and the boat or other vehicles in which the contraband goods may be carried, even though they may not be the property of the defrauders.

Mr. Abbott to Mr. Blaine.

No. 66.]

LEGATION OF THE UNITED STATES,
Bogota, February 6, 1890. (Received March 6.)

SIR: The New York papers from December 28 to January 9 have just arrived. By them I infer that it may have been the custom of our schooners to call at Puerto Bello, on the Isthmus, as well as at points on the coast of San Blas. All my previous dispatches have been written solely with reference to trade upon the San Blas coast, as I have never understood that our schooners have done business in the free territory. Incidentally, however, the laws respecting the free territory have been stated in general terms, and, perhaps, sufficiently for a proper understanding of the case; but, in view of the statements made in the New York press, and that there may be no mistake, I beg leave to call the attention of the Department more particularly than I have done heretofore to the difference between the free territory and the San Blas coast.

The last free port (so called) east of Colon, as will be seen in the list of ports given in the fiscal code, is Puerto Bello. East of Puerto Bello lies the San Blas coast, which is not in the free territory. The laws applicable to the coast have been forwarded and explained in previous dispatches. Those applicable to Puerto Bello and other free ports (so called) have also been incidentally referred to. These free ports, except Colon and Panama, were legally closed to direct traffic by decree 638 of 1883, which also stated at length the manner in which trade in those ports should be conducted. In addition to that decree, is the decree 521 of 1887, a copy of which I inclose, together with law 107 and 109 of 1887. These all relate to trade in free territory and have nothing to do with the San Blas coast. But, as they have been cited by the Colombian vice-consul as applicable to that coast, I thought that the laws themselves would furnish the best evidence to the contrary.

It will be noted that a vessel bound for Puerto Bello, or any other free Atlantic port closed to direct importations, should enter Colon and there conform to the regulations of said decrees, after which it can proceed to its destination with such cargo as may be designed to supply the necessities of the inhabitants thereof. But importations not necessary for that purpose are not permitted.

On the other hand, vessels bound for the San Blas coast must enter Carthagena, pay their duties, and may then proceed to their destination.

All the laws seem to be perfectly clear except that concerning the right of a foreign vessel to go from Carthagena to San Blas. As to this right, however, I no longer entertain the doubt expressed in my last dispatch, but think the right is, and will be, recognized by this Government.

The New York papers contain what purports to be a copy of a letter written by the Colombian vice-consul in New York to the owner of the *Whitford*, informing him that he might clear for Colon and there receive a license to trade upon the San Blas coast. Such information would be correct if the *Whitford* desired to go to Puerto Bello with such cargo as the law permits, but is not correct for San Blas. The vice-consul has fallen into a serious error, and, although he may not be able to bind his Government so as to prevent it from legally seizing the schooner, he has at least furnished the owners thereof with a document which will enable them to purge themselves of any attempt to defraud the revenue of Colombia.

This Government will treat this whole matter in a most friendly and proper spirit, in my belief. So far as I am informed, nothing arbitrary or unusual has been meditated or performed. There is no desire to drive our commerce from the San Blas coast, nor to confiscate the vessels of those who have acted in good faith. There is a desire to enforce the revenue laws, which are intended to be just and to furnish all conveniences to traders consistent with the nature of the means at hand and the proper enforcement of the law.

I would suggest that the licenses said to have been issued at Colon, permitting trade upon the San Blas coast, be carefully scrutinized. It may be that they were only granted for Puerto Bello.

The great difficulty experienced here is that of securing reliable information. It is not known whether the *Julian* and *Willie* are in Carthagena or not. The ministry here did not expect that those boats (if those are the ones) would be brought to Carthagena to be condemned, but solely to pay their duties and receive permits to go to San Blas. What has really been done no one knows. It would be a source of satisfaction if our vice-consul in Carthagena would notify this legation when events so important are taking place.

Information has just been received at the foreign office that the schooner *Whitford* has arrived at Colon, and was there informed by the authorities that she would have to proceed to Carthagena and pay her duties, in order to obtain permission to trade upon the San Blas coast. What course the captain of the schooner took is not known.

I am, etc.,

JOHN T. ABBOTT.

[Inclosure 1 in No. 66.—Translation.—From the Diario Oficial, August 9, 1887.]

Decree No. 521 of 1887 (August 8) upon commerce in the free ports.

The President of the Republic of Colombia, in execution of laws 107 and 109 (article 111) of the present year, decrees:

ARTICLE I. Persons introducing foreign merchandise into the free ports of the Republic for consumption therein shall present to the chief inspector of customs of the port into which the merchandise is imported the consular invoices thereof, certified agreeably to article 11 of law 107 of the present year, within 48 hours from the time when permission shall have been given by the manager of the mails to whom it belongs to discharge said merchandise.

ART. II. The invoices mentioned in the preceding article shall be compared by the chief inspector of customs with copies of the manifests which shall be presented by the consignees of the vessels whose discharge has been permitted by virtue of the pro-

visions of article III of decree No. 638 of 1883; and, if the comparison shows a disagreement in the two papers, the said officer shall investigate the cause of such disagreement and shall make a note of the result of his investigation at the foot of the invoices and the manifests.

ART. III. The chief inspector of customs shall, either in person or by means of agents appointed therefor, attend carefully to the unloading of the vessels, and shall register, in a manner capable of verification, the packages disembarked according to their class, number and marks, having regard, as a general rule, to causing the least possible amount of obstruction and delay in the transport of the merchandise to its respective destinations.

Paragraph.—The register in which is recorded the packages disembarked shall also serve to verify the conformity of the invoices and manifests; and, if such conformity do not appear, the chief inspector shall proceed in the same manner as in article II of this decree.

ART. IV. If an entire agreement between the invoices and manifests shall appear, the chief inspector shall place a certification of the fact at the foot of the invoices and shall deliver them to the interested party.

ART. V. When the chief inspector of a free port shall believe that merchandise has been introduced without presentation of the certified invoices treated of in the foregoing article II of law 107 of the present year, he shall proceed as provided for by the terms of articles 125 and 126 of the fiscal code. He shall demand that the certified invoices be presented, and shall examine the packages by their marks and other external signs, and shall open them if there be no other way of establishing their identity with those mentioned in the invoices.

ART. VI. In case of a failure to present the invoices of one or more packages, although they may have the same marks as others imported with them, a fine shall be imposed of double the amount of consular fees for certification of the document; and, in the case of deficiency or inexactitude of dates respecting the packages mentioned, the fine imposed shall be 50 per cent. of said amount.

ART. VII. In case the importers of merchandise in the free ports shall fail to present invoices agreeably to the provisions of law 107 of the present year, there shall be imposed a fine equal to four times the sum fixed as consular certification fees for said invoices, and the cargo shall be opened by the proper officer to verify that it does not contain articles of merchandise which are prohibited.

ART. VIII. The proceeds of the fines shall be received by the manager of the mails of the respective port, in virtue of the notice of the inspector, who shall inform of the fact the government of the department and the general office of accounts.

ART. IX. The party interested may appeal against the imposition of the fines in writing within 6 days before the governor of the department, who shall obtain from the inspector the information and documents necessary to an understanding of the case, and, in his quality of agent of the executive power, will give final decision upon it.

ART. X. For execution of this decree the consuls of the Republic will forward to the chief inspector of the free port for which the merchandise is bound a copy of the certified invoices, agreeably to the provisions of article 48 of the fiscal code.

ART. XI. Whenever the inspector shall see good cause to suspect that one or more of the packages subject to the formalities of this decree contains prohibited merchandise, or others which do not agree with the invoices, he shall open and examine them.

ART. XII. If the packages should be found to contain prohibited merchandise, the governor of the department, the judicial authority, and the agent of the ministry shall be notified without delay, and the proper parties be called to account agreeably to the laws and the present decree, and the merchandise shall be held in deposit pursuant to the orders to be given by said governor.

ART. XIII. Respecting the cargoes which pass through the Isthmus of Panama, bound for the national custom-houses of the Pacific, or which arrive at the port of Colon, not for the purpose of disembarking, but to be transhipped for the custom-houses of the Atlantic, they shall be governed by the observances actually in force. The ship shall present its invoices to the officers stationed there, to whom the consuls shall also remit sealed papers containing copies of the manifests and invoices mentioned in the first part of article 48 of the fiscal code.

ART. XIV. For the execution of the preceding articles the respective inspectors shall inspect the manifests presented to them by the captains of vessels and the contents of the invoices, regarding the destination of the merchandise and other circumstances; and they shall proceed, in case of infraction, in accordance with the suitable provisions of the same articles.

ART. XV. The formalities regulating traffic between the free ports and the other ports of the Republic shall be the same which have been in force according to the fiscal code, the aforesaid decree, and the other legislative and executive provisions upon the subject.

ART. XVI. The inspectors of the free ports shall retain copies of the invoices to be sent to the consuls for fulfillment of articles 48 of the fiscal code and 10 of this decree, and the registers of the unloading of vessels for the formation of statistics in the terms of article 34 of decree No. 638, already cited; and, if such copies are not received in good season, they shall be demanded without delay.

ART. XVII. This decree shall be in force in the free ports from the 21st of next September.

Done at Bogota, the 8th day of August, 1887.

RAFAEL NUÑEZ.
ANTONIO ROLDÁN,
Secretary of the Treasury.

[Inclosure 2 in No. 66.—Translation.—From the Diario Oficial, June 23, 1887. No. 7081.]

LEGISLATIVE POWER.—NATIONAL LEGISLATIVE COUNCIL.

Law 107 of 1887 (June 21) on commerce in the free ports.

The national legislative council decrees:

ARTICLE I. Ninety days after the publication of this law in the Diario Oficial the cargoes of foreign merchandise bound for the free ports of the Republic for consumption therein shall be subject to the formalities exacted by the fiscal code for merchandise bound for the closed ports, as to the exactions of said code of the presentation of invoices certified by the respective consuls.

ART. II. Persons discharging foreign merchandise for consumption in the free ports of the Republic, upon presenting to the consuls the invoices of the cargoes, shall declare under oath that the contents of said documents are exact, and shall be responsible to the Government for any differences between them and the contents of the packages, and also for not unloading prohibited articles of merchandise.

ART. III. In the future, in addition to the commodities mentioned in article II of law 36 of 1886, the national coin, of whatever denomination or metal, with the exception of gold and silver of 0.900 and the unsigned banknotes of the national bank, shall be held to be prohibited articles.

ART. IV. The inspectors of the ports of Panama and Colon shall receive the invoices of cargoes of foreign merchandise destined for consumption in those cities and shall be empowered to inspect suspected articles with formalities prescribed by Government in a special decree.

Done at Bogota, June 20, 1887.

VICENTE RESTREPO,
President.
JOSÉ M. RUBIO FRADE,
Vice President.
ROBERTO DE NARVAEZ,
MANUEL BRIGARD,
Secretaries.

[Inclosure 3 in No. 66.—Translation.—From the Diario Oficial, June 28, 1887. No. 7090.]

LEGISLATIVE POWER.—NATIONAL LEGISLATIVE COUNCIL.

Law 109 of 1887 (June 22) of authorization to the Government.

The national legislative council, in view of section 9 of article 76 of the constitution, and considering that it is of the utmost importance to provide for the protection of the revenue and the prosecution and punishment of frauds committed upon it, matters which can only be suitably provided for by the legislative power, decrees:

ARTICLE I. The executive power is hereby authorized to introduce into the customs and salt mines service all modifications suited to enhance their efficiency, increasing the personnel of the custom-houses and assigning to new employés appropriate salaries not to exceed those now paid to the same customs officers.

ART. II. These salaries shall be considered as included in the law of salaries and shall figure in the respective accounts of expenditures.

ART. III. The executive power is also authorized to make such regulations as may be necessary for the prosecution and punishment of fraud on the revenues newly created.

In said regulations the measures to be pursued shall be specified and the employé in whose province it shall lie to apply the penalties against persons guilty of fraud.

ART. IV. The executive power shall give account, in due season, to Congress for the use made of the authorizations contained in this law.

Done at Bogota, June 20, 1887.

VICENTE RESTREPO.

President.

JOSÉ MA. RUBIO FRADE,

Vice President.

ROBERTO DE NARVAEZ,

MANUEL BRIGARD,

Secretaries.

Mr. Blaine to Mr. Abbott.

No. 48.]

DEPARTMENT OF STATE,

Washington, March 3, 1890.

SIR: Your dispatches Nos. 53 of January 11, 56 of January 20, and 65 of February 1, 1890, in relation to foreign trade with the San Blas coast and the reported seizures of vessels unlawfully engaged therein, have been received, and I have much pleasure in commending your full and clear reports on the subject.

A report of Mr. Vifquain, consul at Colon, accompanied by translations of all the Colombian laws and regulations bearing on this point which he has been able to discover, agrees fully with the results of your examination and bears out the conclusion that direct trade on the San Blas coast from a foreign country or indirect coastwise traffic from an open free port are distinctly prohibited.

Your dispatches * * * indicate that, while steps have been taken to properly instruct the consuls and local customs officers of Colombia as to their exact function in the premises, no penalty is likely to be visited on vessels which may be found to have engaged in the prohibited traffic in good faith under clearances or licenses mistakenly granted by Colombian officers. This proper and equitable view of the situation was to be expected, and you will use your best endeavors to see that no American vessel, reasonably appearing to have acted in good faith, shall be subjected to other inconvenience or restraint than may be requisite to insure compliance with the promulgated rules and laws of Colombia in this regard.

You will at the same time impress upon the Colombian Government the necessity of clearly making known its requirements, in order that the officers of Colombia may properly do their duty, and that the shipping of a friendly neighbor may not be annoyed and interfered with as a consequence of the contradictory interpretation of the laws of Colombia which is admitted to have been made by its agents.

I append for your information copy of a letter addressed by the Department to Messrs. Foster & Co., of New York, the complainants in the case of alleged seizure of the *Julian*, together with the annexed translation of the Colombian laws on the subject prepared by Mr. Vifquain.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 48.]

Mr. Adee to Messrs. Foster & Co.

DEPARTMENT OF STATE,
Washington, March 3, 1890.

GENTLEMEN: Referring to your previous correspondence with this Department relative to trade with the San Blas coast of the Isthmus of Panama, I have the pleasure to transmit herewith for your information a translation of the laws, decrees, and regulations of the Republic of Colombia applicable to such traffic, as collected by the consul of the United States at Colon.

It appears from these extracts that the port of San Blas is not mentioned as a port of entry (*puerto habilitado*) or as a free port, although, being within the limits of the State of Panama and distant only about 150 nautical miles by water from Colon, it would appear to be, as claimed, a dependency of that port comprehended within the free zone of the Isthmus of Panama.

By article 16 of the fiscal code, the following are declared ports of entry on the Atlantic coast of Colombia, to wit: Carthagena, Sabanilla, Colon, Santa Martha, and Rio Hacha. The following on the Atlantic coast, are declared by article 17 of the fiscal code to be free ports, to wit: Colon, Boca del Toro, Chagres, and Puerto Bello, all within the lines of the State of Panama, and, in addition to these, the ports of the archipelago of San Andreas, in the Atlantic, which belong to the State of Bolivar.

The only point upon which the report of the consul is not clear is as to whether San Blas is comprised within the free zone of the Isthmus of Panama. But, as San Blas is not *habilitado*, the obligation to enter at some port legally open to foreign vessels before proceeding to San Blas appears to be certain.

In addition to Mr. Vifquain's the report, the Department is in receipt of very full dispatches on the subject from our minister at Bogota. Mr. Abbott's careful examination of the Colombian statutes on the subject, made, as he reports, under good legal advice, leads him to the same conclusions as Mr. Vifquain has reached, that nothing is found that gives a colorable right to carry on direct traffic with the San Blas coast. The laws are general and apply as much to Colombians as to foreigners. In fact, his latest dispatch, dated the 1st ultimo, refers to the reported detention of a Colombian schooner engaged in illicit trade.

Mr. Abbott and Mr. Vifquain agree in declaring that no American vessel has been seized. Orders were given by the Colombian minister of finance to permit the *Julian* and *Willie*, or two schooners which are supposed to be the ones named, to proceed on their voyage to San Blas after entry and payment of duties at Carthagena. Mr. Abbott remarks that "there seems to be no direct provision of law authorizing, in terms, a foreign vessel to enter Carthagena, pay her duties, and proceed to the San Blas coast, nor is there any prohibition of such act. The laws imply it, however; the foreign minister asserts it."

The definite statement made to Mr. Abbott by the minister of finance is as follows: "The boat should be dispatched for importation (import entry?) to Carthagena and subsequently to San Blas for *comercio costanero*." There appears, therefore, to be no trace of any law or regulation authorizing the issue of a license for direct trade of a foreign vessel with San Blas or for a coasting license between a free port and San Blas. Any action to the contrary by the Colombian consul at New York, or by any official in Colon, appears to have been without legal warrant, and steps have been taken by the Colombian Government to instruct those agents as to their proper duty. Mr. Abbott does not apprehend any difficulty in relieving from penalty any vessels which may have been found to have engaged in prohibited trade on the San Blas coast under clearances or licenses which, although invalid, may have been procured in good faith by the masters from the agents of the Colombian Government.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

LAWS REGULATING COMMERCE IN COLOMBIAN WATERS.

[Translated and transmitted by Consul Vifquain, of Colon, February 3, 1890.]

Decree No. 638 of 1883, relating to formalities for the commerce of Panama and Colon and other ports of the Republic.

The President of the United States of Colombia, by virtue, etc., decrees:

ARTICLE 1. The importation of foreign goods into the free zone of the Isthmus of Panama can only be done at the ports of Colon, on the Atlantic, and Panama, on the Pacific.

ART. 2. (Relates to police matters in port.)

ART. 3. The agents or consignees of merchant vessels arriving at the ports of Colon and Panama will present to the respective *administrador de hacienda*, through the intermediary of the inspector of the port, in a period not exceeding 3 days, a copy of the manifest, with a full and complete description of the cargo, and also comply with other minor regulations, as provided by article 41 of the fiscal code,* excepting those provided for in article 9 of the law No. 60 of 1875.†

ART. 4. The formalities of the visit of entry and other regulations relating to the police of the port having been accomplished, and which, in accordance with law, must precede the discharge of the cargo, the vessel will be allowed to discharge without hindrance, having due regard for the provisions of the "port rules" established by the Panama Railroad, as approved by the executive power of the Republic. No reshipment from one vessel to another is allowed without the knowledge and consent of the *jefe del resguardo*, who is the inspector of the port.

ART. 5. Before a vessel will be permitted to load with foreign goods the captain, supercargo, or agent of the vessel will notify the inspector of the port in writing, stating therein the port or ports at which the vessel intends to touch, the pier or place where the goods are to be put on board, in accordance with article 6 of this decree, and the number of days and hours likely to be required for the loading of the vessel.

If any of the ports of this country named in the application in writing is not an open port‡ (*no habilitado*), the inspector of the port will at once notify the captain, supercargo, or agent of the vessel that the transaction is absolutely prohibited, and he will take the necessary steps to prevent the goods for such port or ports to be shipped.

If the vessel intends to sail for a port or ports in the free zone of the Isthmus of Panama in accordance with law, the goods will be allowed to be placed on board, provided the inspector of the port has ascertained by the facts the capacity of the vessel and other circumstances, that the goods are intended for the free zone, and not for the purposes of introducing goods at such places as are not enjoying the privileges of the free zone. In all cases the inspector of the port will adopt all means of precaution which he may deem necessary to prevent the fraud.

ART. 6. In the port of Panama the only place at which it is allowed to load, as provided in article 5 of the decree, is the one known as El Teller, and in the port of Colon that part of the port included within the existing piers.

ART. 7. Vessels or craft of more than 25 tons will not be allowed to take foreign goods without first producing two responsible sureties, satisfactory to the inspector of the port, who will be held responsible in a sum equal to twice the amount of import duties which said goods would have to pay under the fifth schedule of the *tarifa* (tariff law). In this case a sufficient number of days will be allowed to produce a voucher or certificate establishing the facts guaranteed, to wit, that the goods were delivered in the ports designated by the sureties, and, if no voucher or certificate is presented at the expiration of the specified time, then the surety will be forfeited.

ART. 8. The same surety of which article 7 treats, and for the same causes, will be required from the captain or shipper of goods of any vessel preparing to leave this port of Colon or Panama, when, in the judgment of the respective inspector of the port, there are reasons for believing that it is intended to take such goods as contraband (smuggling) to a port that is not an open port.

ART. 9. The voucher or certificate referred to in the two preceding articles, and for the same causes, will consist of a certificate from the custom-house officials at the

* Article 41, *fiscal code*.—All captains or supercargoes of vessels that are loading in foreign ports, and the destination of which is one of the ports of this Republic, must present to the consular agent of the United States of Colombia, or to his substitute, a manifest, signed in triplicate, which will contain, in order and clearly, the following data: (1) The class, the flag, the name, and port (home) of the vessel; (2) the port of departure and the port or ports of this Republic at which said vessel intends to stop; (3) the name of shipper, and the name of the person or persons who sends each lot of goods, and of the person to whom it is consigned; (4) the marks and number of each package and their net weight; (5) the number of *bultos* (packages) in each shipment and the total of the same destined to each port.

† Article 9 of the law No. 60 of 1875.—No punishment will be inflicted for failing to enumerate in the manifest the following: Live animals, tiles, brick, paving stone or rough stone, timbers for building, grindstones, lime in barrels or sacks, marine salt, lead in sheets or ingots, pig iron or sheet iron, rods, staves for barrels, chains (large), iron bars (large and small), drilling iron for mines, demijohns (empty), and large boilers of copper or iron.

‡ Article 16 of the *code fiscal*.—The following are declared open ports (*habilitados*) for the importation and exportation, to wit: Carthagena, Sabanilla, Colon, Santa Martha, and Rio Hacha, on the Atlantic side. * * *

place of destination if the cargo is landed at a port of this Republic which has custom-house officials, or from the consular officer of this Republic in case the goods are discharged in a foreign port, or, in case there is no Colombian consul at the place, then from a consular officer of another nation, in accordance with article 52 * of the fiscal code, or, in default of any and all consular officers, then from a certificate signed by three responsible merchants doing business at the place of discharge.

ART. 10. When, in accordance with articles 5 to 9, respectively, there is no objection whatever to grant the vessel permission to load the cargo, the inspector of the port will give it in writing.

(Articles 11, 12, 13, 14, 15, and 16 are immaterial to the point of issue; they refer to hatches, to guards, etc.)

ART. 17. All foreign goods which will be put on board of ships in the ports of Panama and Colon, respectively, in destination for a port or ports of this Republic at which importation of such goods can be done, all rules and regulations provided by section 2 of chapter 2 of the fiscal code, as also those provided by articles 5 to 14 of the law No. 109 of 1880, will be strictly observed.

ART. 18. At the other free ports of the Isthmus of Panama besides Colon and Panama, as specified in articles 17 and 18 of the fiscal code,† the commerce of foreign goods to open ports of this Republic will not be allowed without said vessel touching at Colon if said ports are on the Atlantic side and at Panama if on the Pacific side.

ART. 19. As regards the preceding article (18), the respective inspectors of the port will secure on board or at the place of discharge, if necessary, the data required to make certain of the correctness of the manifest and will place evidence of that fact upon the document. This document must show, also, the certifications as provided by article 55 of the fiscal code.‡

ART. 20. It is absolutely prohibited to trade or traffic between the free ports of the Isthmus and such ports as are not qualified as open ports (*no habilitado*).

(Article 21 refers to domestic products going from a free port to some open port.)

(Article 22 provides for the several degrees of punishment to be inflicted for violation of the provisions enumerated in the preceding article.)

(The remainder of the decree has no particular bearing on the point at issue—trading on the San Blas coast and San Andreas.)

Articles of the fiscal code relating specially to the traffic between free ports and such localities as San Blas.

ART. 12. It is absolutely prohibited to traffic between the free ports of this Republic and such ports as are not qualified by law as open ports; consequently, when a vessel of any kind, large or small, carries goods from a free port to another port not open to commerce, such punishment will be inflicted as provided for such cases by article 326 of this code. The captain of the vessel or "patron" of the craft, their accomplices and auxiliaries, will in each case be arrested by the competent authorities and be subject to a fine of 200 pesos and imprisonment for from 2 to 4 months.

* *Article 52 of the fiscal code.*—In such ports as have no Colombian consular officers, or in those which have no Chilean consular officers, who, by treaty with his Republic, are obliged to certify Colombian invoices and manifests, or, if there are no consuls of a friendly nation at all in said ports, then by the signatures of two merchants, and whose signatures authenticate the document.

† *Article 17 of the code fiscal.*—Are declared free ports: (1) Colou, Boca del Toro, Chagres, and Puerto Bello; (2) Pacific side; (3) those of the archipelago of San Andreas, in the Atlantic.

Article 18 of the fiscal code refers to Panama.

‡ *Article 54 of the fiscal code.*—Respecting vessels arriving in an open port from one of the free ports, the same rules will be observed as if they had arrived from a foreign port.

Article 55 of the fiscal code.—If in some of the free ports there are no public officials at all (consular agents, inspector, or postmaster), the vessel going from such a port to some open port (*habilitado*) with foreign goods must secure at some other port where such officials are located all the necessary certifications as provided by articles 41 and 42 of this code.

Article 42 of the fiscal code.—All persons desirous to send goods to the open ports of this Republic (*habilitados*) must present to the consular office, or to his substitute, at the place where the goods are shipped from, triplicate invoices which will express: (1) The name of the shipper, where the goods are from, the consignee's name, the port of destination, and the name of the vessel; (2) the marks, enumeration, description, contents, and net weight of each package; (3) the total value of the invoice, without details respecting each package.

This punishment will not only be inflicted when the vessel is caught in the act of carrying or discharging the goods, but also when preparations are making and the fact reported to a public employé, and after having been fully verified in the courts.

ART. 13. Is also declared contraband (smuggling) the goods carried by a vessel caught on the high seas, in a bay, or in a creek or cove, or in a port where there is no custom-house, with one or more boats about it, or attached to its sides, and not belonging to the vessel itself, or sent there (to the vessel) by the authority of a collector of customs or deputy.

The vessel, boats, captains, patrons, accomplices, and auxiliaries will be amenable to such punishment as prescribed by article 12 of this code.

ART. 14. The coastwise traffic, or *cabotage*, with foreign goods is equally prohibited from the ports that are not open ports to those that are such.

ART. 19. The ports situated on the islands of this Republic are closed to exterior commerce; consequently, only coastwise traffic is allowed on such islands.

The ports mentioned in the preceding articles are exempted from the provisions of article 19.

ART. 20. All the regulations provided for and by the system of customs can be executed in the free ports with absolute freedom, excepting only those which are expressly prohibited by articles 39 and 40 of this code. (These two articles refer to the prohibition of the importation of false money, or money less than 0.835 fine, machinery for the manufacture of false money, and nitroglycerine.)

Law No. 109 of 1880.

ART. 20. The jurisdiction of the inspector of the port of Panama will extend to the littoral and islands of the State of Panama in the Pacific Ocean, and that of the inspector of the port of Colon to all the littoral and islands of the State of Panama in the Atlantic Ocean. (San Blas is on the littoral of the State of Panama; the archipelago of San Andreas does not belong to the State of Panama; it belongs to the State of Bolívar.)

Law No. 21 of 1886.

ART. 2. Sailing vessels are prohibited to trade between Colon and the open ports of the Atlantic, as also between Panama and the Pacific coast of this Republic. (This was amended by the law No. 90 of the same year, adding after the word "Republic" the words "with the exception of the ports of Buenaventura and Tumaco.")

Chapter 9 of the code—violations, punishments, etc.

ART. 326. In case a vessel has no register, manifest, or other documents provided by law, a fine of 200 to 1,000 pesos.

In case of an attempt to unload cargo in a different port than the one mentioned in manifest, the loss of the merchandise, vessel, and other vehicles helping it.

The same forfeiture in case foreign goods are attempted to be imported or re-exported by means of coastwise traffic to or from ports not open to commerce.

Various other penalties for misrepresentations in the manifest, for resistance to custom-house authorities, for taking goods from the custom-house without the prescribed formalities, etc.

Mr. Abbott to Mr. Blaine.

No. 71.]

LEGATION OF THE UNITED STATES,

Bogota, March 7, 1890. (Received April 4.)

SIR: It having been reported in the New York press that there is a law in Colombia forbidding coast trade (*comercio costanero*, i. e., trade between ports of entry and points not ports of entry) in vessels of over 4 tons burdens, I take this occasion to say that no such law or regulation exists.

The minister of foreign affairs, in a memorandum upon this matter, after citing article 9, section 6, article 302, and article 12 of the fiscal code, says:

To sum up all, merchandise duly introduced into the custom-houses with all the formalities prescribed for importations can be carried to the coast of San Blas, being dispatched from the port of importation according to the regulations for *comercio costanero*, and the productions of said coast can be exported only through some port of entry after having been brought there for that purpose.

Articles 316 to 318 of said code contain the proceeding to be observed in carrying on *comercio costanero*.

Certain articles, of which I have just spoken, treat of small vessels (*embarcaciones menores*), which, it seems, are those which do not exceed 10 tons burden, according to the resolutions of April 19, 1877, and April 26, 1881. * * * But the dispositions which refer to that class of vessels treat only of coast commerce (*comercio de cabotaje*), which is that carried on between two ports of entry. The result is that for coast trade (*comercio costanero*) there exists no condition whatever relative to the capacity of vessels (*embarcaciones*).

A telegram has been received from President Nuñez announcing the termination of the difficulties relating to the "schooners," from which it is supposed that both the *Pearl* and the *Julian* (which I now understand sailed under the Dominican flag) have been released.

At this date nothing more is known of the condition of affairs.

I have, etc.,

JOHN T. ABBOTT.

Mr. Abbott to Mr. Blaine.

No. 74.]

LEGATION OF THE UNITED STATES,
Bogota, April 15, 1890. (Received May 15.)

SIR: I have received your No. 48 of March 3, 1890, in relation to the reported seizures of vessels engaged in foreign trade with the San Blas coast, in which you instruct me to impress upon the Colombian Government the necessity of clearly making known its requirements to those officers who are charged with the execution of the customs laws.

I have to report that full and explicit instructions have been so issued by this Government for the purpose of avoiding all difficulty in future.

The minister for foreign affairs informs me that these instructions are in conformity with the laws and decrees hitherto in force, and that no new rules or regulations have been made.

Definite information reached me from the consul in Carthagena that the *Julian* has been permitted to sail for the San Blas coast after having paid the duties on her cargo.

Our merchants may rest assured that this Government will sanction no arbitrary or unjust molestation of their vessels or business.

All desired is that they conform to the laws, to the end that Colombia may receive the customs duties to which she is entitled.

I have, etc.,

JOHN T. ABBOTT.

Mr. Abbott to Mr. Blaine.

[Extract.]

No. 77.]

LEGATION OF THE UNITED STATES,
Bogota, April 24, 1890. (Received May 15.)

SIR: Not having received your reply to my No. 48 of December 12, 1889, respecting the rights conferred upon our consuls by the treaty of 1846, in the matter of the settlement of estates, and the day of the judi-

cial sale of the houses therein referred to being close at hand, I represented the situation to the minister for foreign affairs, with the suggestion that the matter might be more satisfactorily discussed before than after the sale.

He agreed with me and immediately telegraphed to the governor of Panama to procure a postponement of the sale.

The questions arising have not been discussed, but simply suggested, and an arrangement is to be made between the minister and myself as to the time when the matter shall be considered. In the meantime all things are to remain *in statu quo*, and no one is to be prejudiced.

It is presumed that the case will be considered about the middle of August.

I have, etc.,

JOHN T. ABBOTT.

Mr. Blaine to Mr. Abbott.

No. 67.]

DEPARTMENT OF STATE,
Washington, May 29, 1890.

SIR: I have to acknowledge the receipt of your No. 77 of the 24th ultimo, in which, referring to your No. 48 of the 12th of December last, you inform the Department of the postponement of the proposed sale of the houses belonging to the estate of Mrs. Smith at Colon, and of the understanding you have reached with the minister for foreign affairs that the case shall be discussed between you before anything further is done. The Department has received this information with satisfaction, since it is of opinion that the consul at Colon, Mr. Vifquain, was acting within his right in selling the houses and that his action should not be disturbed.

The tenth paragraph of the third article of the consular convention between the United States and New Granada of 1850 contains, in reference to the powers of consular officers, the following provisions:

They may take possession, make inventories, appoint appraisers to estimate the value of articles, and proceed to the sale of the movable property of individuals of their nation who may die in the country where the consul resides without leaving executors appointed by their will or heirs at law. In all such proceedings the consul shall act in conjunction with two merchants chosen by himself for drawing up the said papers or delivering the property or the produce of its sales, observing the laws of his country and the orders which he may receive from his own Government; but consuls shall not discharge these functions in those states whose peculiar legislation may not allow it. Wheresoever there is no consul in the place where the death occurs, the local authority shall take all the precautions in their power to secure the property of the deceased.

The first question that arises in the present case under this paragraph is whether the United States consul at Colon had, in 1888 or 1889, when he sold the houses, the right to take possession of and sell the movable property of his countrymen in that place. The Department is of opinion that he had. In 1850, when the consular convention was concluded, New Granada was a centralized Republic. There were then no states in that country, and there was no general law defining or limiting the powers of consuls with respect to the settlement of the estates of their deceased countrymen. Later, when the United States of Colombia were created, the separate States of which the Republic was composed adopted legislation of their own on the subject, under which

it was claimed that the consuls were precluded from acting, since the treaty provided that they should not discharge such functions "in those states whose peculiar legislation may not allow it." It seems that this Department in 1871 claimed for our consuls the right to act under the treaty in the settlement of estates, notwithstanding the adverse local legislation; but into the merits of this controversy it is not material now to enter. In 1885 the United States of Colombia became the Republic of Colombia; the States were reduced to departments, and the most of their prior legislation became inoperative. In 1887, however, a national law was adopted, which, as you inform the Department, provides that if a deceased person shall leave foreign heirs, the consul of the nation of these heirs shall have the right to name the *curador* who shall have custody and administration of the property. You state that you have consulted two lawyers, high in their profession, who are of opinion that a *curador* is substantially what we call an administrator; that the estates of all foreigners are outside of treaty stipulations, to be settled in the manner indicated in the above law; and that under it foreign consuls have no other right than that of nominating the *curador*. Whether or no this construction of the law be correct is, in the opinion of the Department, immaterial to the determination of the question now under consideration. It is the opinion of the Department that there is in the present case a pertinent and comprehensive treaty stipulation, and this stipulation, it is needless to argue, is of paramount obligation upon the contracting parties.

As already stated, the tenth paragraph of the third article of the consular convention of 1850 provides that the consuls of the contracting parties "may take possession, make inventories, appoint appraisers to estimate the value of articles, and proceed to the sale of the movable property of individuals of their nation who may die in the country where the consul resides without leaving executors appointed by their wills or heirs at law."

The only exception to the exercise of this power is found in the provision that "consuls shall not discharge these functions in those states whose peculiar legislation may not allow it." The reason and effect of this provision are clear. In the United States, just as was formerly the case in Colombia, legislative power in respect to the settlement of estates is vested in the several States. It has always been controverted whether the exercise of this power could constitutionally be controlled by the Government of the United States, either by law or treaty. In order to meet this difficulty, it was provided by the present treaty that consuls should not exercise the function of settling estates in states whose "peculiar legislation" might not allow it. The term "peculiar legislation" means simply legislation of particular political divisions of the country, possessing legislative power with respect to the subject-matter. The term "those states" was also obviously employed in reference to the same political divisions, and could not have been used in reference to the contracting governments. So far as those governments were concerned, they bound themselves, in all places where they possessed the necessary jurisdiction, to permit consuls to exercise the function in question. So clear does this appear to be that the Department does not perceive how any other construction can be placed upon the treaty. It is therefore the opinion of the Department that the consul at Colon had authority, under the treaty, to take possession of, inventory, appraise, and sell the movable property of Mrs. Smith.

It now remains to determine the question whether the houses which

he sold, built upon land leased from the Panama Railroad Company, were movable property within the meaning of the treaty. If they were, the consul had, under the construction herein maintained, the right to take possession of and sell them.

Among the methods by which it is held that property in goods and chattels may be acquired is that of accession. This right existed under the Roman law, from which it found its way into the jurisprudence of England and of the United States. "The right of accession," says Kent, "is defined in the French and Louisianian codes to be the right to all which one's own property produces, whether that property be movable or immovable, and the right to that which is united to it by accession, either naturally or artificially" (2 Kent's Com., 360). This definition, it is believed, correctly defines the right wherever it is recognized, and it is understood to be recognized in the law of Colombia.

Under the doctrine of accession, it was held that, if one built with his own materials a house on the land of another, the owner of the land acquired, by the right of accession, the property in the building. Such is the general principle, but it is by no means without exceptions. There are many cases in which a man may own, as personal property, a building erected upon the land of another. This has been held to be so, even in the absence of an express agreement between the owner of the land and the builder of the house. But it appears to be as unquestionable as it is just and reasonable that, where it is understood and agreed that the title to the building shall not be merged in the title to the land, the property in the two things remains distinct and the building is treated as personalty. In this case the owner of the land waives his right of accession, and, having waived it, he can not in turn claim the benefit of it. Such a waiver appears to have been made in the case of Mrs. Smith's houses.

With his dispatch No. 158 of the 30th of December last Mr. Vifquain transmitted to the Department a blank form of the lease which was made by the Panama Railroad Company to Mrs. Smith. The sixth article of the lease, translated, reads as follows:

It is also a condition of this contract that on its expiration, whether by the ending of the term of 5 years above fixed or by its having been terminated or rescinded before that term, — the lessee — binds himself to return to the company the leased land, clearing it entirely, the expense of the operation of pulling down the house and removing the materials being upon the lessee.

This seems to contain a clear renunciation of the right of accession. It is also observed that in the fourth article of the contract it is provided that, if the lease shall be determined by reason of the failure of the lessee to pay the stipulated rent, any building which may have been erected shall remain at the disposal of the competent judge in order that it may be subjected to the sentence which he may pronounce. And the fifth article provides expressly that the lessor shall in no case have a right to the improvements made on the land leased.

These various provisions appear completely to have destroyed the right of accession and to have placed the houses erected by Mrs. Smith in the category of movable property which the consul had the right to take possession of and sell.

You are therefore instructed to maintain the validity of the sale of the houses in question by Mr. Vifquain.

I am, etc.,

JAMES G. BLAINE,

Mr. Abbott to Mr. Blaine.

No. 95.]

LEGATION OF THE UNITED STATES,
Bogota, July 18, 1890. (Received August 19.)

SIR: I acknowledge the receipt of your instruction No. 67 of May 29 last, in which you direct me to maintain the validity of the acts of Consul Vifquain in the matter of the Smith estate in Colon.

Dr. Roldán informed me this morning, himself introducing the subject, that he would discuss the matter with me as soon as possible, probably within 3 weeks, and that he thought we should have no difficulty in coming to an understanding.

I have, etc.,

JOHN T. ABBOTT.

Mr. Abbott to Mr. Blaine.

No. 113.]

LEGATION OF THE UNITED STATES,
Bogota, August 14, 1890. (Received September 13.)

SIR: I herewith transmit a copy and translation of so much of the report of the minister of foreign affairs as relates to the claim of the Boston Ice Company against this Government.

I have, etc.,

JOHN T. ABBOTT.

[Inclosure in No. 113.—Translation.]

Extract from the report of the minister of foreign affairs.

Under its constitutional powers, the Government of the Republic resolved to reserve for itself, as a means to increase the income of the exchequer, the monopoly of the production and sale of ice in the department of Panama.

To that end the minister of hacienda put up the new revenue at public sale, and it was adjudged to the highest bidder, between whom and the Colombian Government was celebrated a contract.

A company of the United States of America, called the Boston Ice Company, had for some years back been importing large quantities of ice to the Isthmus on its own vessels, and to such an extent that it had come to have almost a monopoly of the sale of ice in Panama.

The Boston company, which did not care to be represented at the auction sale of the privilege had in Bogota, considered the monopoly established by the Colombian Government as a violation of its rights and complained to the Government at Washington. The honorable legation of the United States of America informed this department that in the conception of its Government the monopoly of ice in Panama was contrary to the law of nations and to the treaty of 1846 now in force between the two Republics.

Our Government has maintained the contrary, upon the ground that there is no principle which can prohibit the establishment of monopolies, which, like all fiscal resources, are the means employed by nations to obtain from the public the funds necessary for their support.

It is true that in the specifications for bids at the auction sale of the privilege there is a clause which obliges the grantee, if he be a foreigner, to agree not to claim diplomatic intervention for the settlement of differences arising from the interpretation and execution of the contract. But that interpretation, far from being contrary to the law of nations, is entirely in accordance with it. The clause simply gives expression to the elementary principle that the courts and tribunals of the nation in which proceedings of this kind are had, and where their results must be realized, have jurisdiction of all lawsuits arising from the contract.

Such is the established principle of our law as to foreigners, and its observance is so absolutely demanded that it can not be placed in doubt without endangering the independence of nations.*

It is also true that in cases of denial of justice an appeal through the diplomatic channel becomes a necessity, such action being a duty and a right of states in behalf of their subjects or citizens.

But such exception is a necessary concomitant which there is no need to express [in words]; and, so far as individuals are concerned, they can renounce any rights whatever, provided they do not injure thereby those of third persons. The Boston Ice Company, then, had full liberty to be present at the public sale, free alike to natives and foreigners, and, if its proposals do not figure in the sale, it was not because the Government prevented it.

The arguments drawn from the treaty of 1846 to sustain the claim of illegality in the creation of the monopoly and the sale of the privilege turn upon the hypothesis already confuted, that the company had not the full liberty to bid at the public sale.

Articles 2, 3, 7, 17, 18, and 35 of the treaty are cited to support this view, but none of them are applicable to the present case.

Article 2 contains the most-favored-nation clause and could only relate to this monopoly in case that Colombia had agreed with some other nation not to monopolize the production and sale of ice in Panama, a thing which has never happened.

Article 3 assures the liberty of commerce as to every kind of products, manufactures, and merchandise. But this stipulation admits of an exception intimated in the article itself and expressed in the fourth, when the latter mentions articles of prohibited importation and illicit commerce. So that the Government reserved to itself, as was natural, the inalienable faculty to classify articles of import as either of lawful or of illicit commerce.

This proposition will appear indisputable when it is noted that different national, departmental, and municipal monopolies have existed in Colombia since 1846 without any objection by the United States of America that they were in violation of the treaty stipulations above cited.

Article 7 plainly has no relation to the ice monopoly, since it merely establishes the right of citizens of the United States to carry on business in our territory by themselves of their agents.

Neither are articles 17 and 18 in point. They, indeed, while prohibiting smuggling, establish freedom of commerce in all articles not contraband; but, from the fact of specifying what articles are not contraband, it is seen that such stipulations must have had exclusively in view the rule for determining neutrality in time of war, commerce being, in effect, free, in this limited aspect, in everything that can not be considered contraband. More clearly, in said articles the only law considered is the international law which declares lawful traffic in all merchandise not contraband of war, and this does not imply that amongst articles free by the law of nations there are not some, trade in which may be prohibited by the public or constitutional laws of the respective country.

But it is now demonstrated that no such exclusion took place, and that the Boston Company abstained voluntarily from bidding at the sale.

If that company had a rightful claim for indemnity against the Government, all the citizens of Colombia would have the right to make a similar claim, since their condition can not be worse than that of the citizens of the United States of America; all the individuals and corporations of the United States which had carried on or were carrying on the ice business in Panama at the time of the creation of the monopoly could make the same claim; all the citizens of the United States of America whose rights are the same as those of the Boston Ice Company would have the same power; the subjects or citizens of the Hanseatic cities, Spain, Great Britain, Italy, and the states with which the Republic has existing treaties containing the most-favored-nation clause would have the right to claim a similar indemnity; and, finally, all foreigners, domiciled or transient, could make use of the same privilege, since, conformably to our laws and practices, they all enjoy among us the most perfect equality of rights. These consequences make perfectly clear the incorrectness of the premise from which they are drawn.

The liberty of commerce guaranteed by the constitution, laws, and treaties of Colombia ought not to be interpreted as the Boston Ice Company claims it should be, since it would follow that all imposts, taxes, and contributions which affect commerce would have to be characterized as contrary to that liberty. In agreeing to such liberty in its treaties, the Republic, like all civilized nations, could not be obliged to

* In the specification for bids, dated May 3 last, in Haarr's Republic of Peru, for the sale of the rents of the property, "Nuteuyaco," there is a similar stipulation: "If the successful bidder shall be a foreigner, he shall on no account make any claims through the diplomatic channel, but shall subject himself absolutely to the jurisdiction of the courts of the Republic."

render effective an impossible situation, but only to guaranty the rights which the law recognizes in the matter; so that, although these rights may be without limit, they may be assured within the orbit pointed out by the laws. The proof of this is that the Republic has prohibited, under its present political organization, trade in arms and munitions of war, free before, even to individuals; so that an absolute monopoly in the introduction and sale of arms and munitions has been created, natives and foreigners alike falling under the prohibition, and no one of the latter and none of their governments has made any claim for indemnity.

Mr. Abbott to Mr. Blaine.

No. 117.]

LEGATION OF THE UNITED STATES,
Bogota, August 18, 1890. (Received September 13.)

SIR: I inclose herewith a copy and translation of so much of the report of the minister of foreign affairs as relates to the claim of the Panama Star and Herald against this Government.

I am, etc.,

JOHN T. ABBOTT.

[Inclosure in No. 117.—Translation.]

Extract from the report of the minister of foreign affairs.

THE STAR AND HERALD CLAIM.

In 1886 the civil and military governor of Panama issued an executive decree suspending for 2 months the publication of the periodical Star and Herald, of which several citizens of the United States of America in said city are proprietors. The decree of the civil and military governor took into consideration the course which said newspaper had observed during days of public disorder, which course might be called hostile with respect to the National Government of the then State of Panama. Upon characterizing certain publications made in the journal referred to, it was natural to bear in mind the grave circumstance that it had mingled freely in politics, even to the extent of instigating upon the Isthmus the dismembering of the Republic.

The conduct of the authority in Panama at a time when the rights of the press were necessarily restricted would have been in no manner censurable if there had not intervened such circumstances as converted the decree into an irregular measure. The same civil and military governor had guaranteed the absolute liberty of the press, a measure which placed the periodical, as well as the remaining publications, upon a normal footing. Therefore, the case resolved itself into an exceptional position, voluntarily created by the authority; and, on this account, the Supreme Government was obliged to order that the suspension should not take effect. The difficulties at the time, combined with the delay of communications, prevented the immediate fulfillment of the orders of the Government; and even the harsh necessity of accepting the resignation, which the civil and military governor made of his position in case said orders were irrevocable, was realized.

The proceedings of the Government with respect to the Star and Herald and civil and military governor of Panama should be considered with relation to the constitution and laws of Colombia and of the laws of nations. Under the first aspect, the right which every State has, even in time of peace, to regulate the liberty of the press, suspending or punishing, among other acts, those which may assail the public tranquillity, the political order, and the national sovereignty, is undoubted. This faculty, based upon the attributes and ends of the Government, is strengthened in time of war and during the epoch of transition from war to the normal order; but it is natural that it should be governed by the principles of common equity, which are obligatory under all circumstances.

With respect to the laws of nations, it must be borne in mind that the nationality of the owners of the Star and Herald did not create for them, either by virtue of general principles or by virtue of treaties, a privileged condition better than that of the Colombians. The laws and practices of the Republic in the matter of the civil rights of foreigners are surely as liberal as the state most advanced in this respect; but, although they may be such, for the honor of our country, they can not oppose

the dictates of natural law which forbid the establishment of a preference in favor of foreigners as against one's own citizens. Even the most civilized countries, which in this respect have succeeded in almost equalizing the condition of the foreigner and of the citizen, deprive the former of the right to direct, edit, and publish political periodicals, for the reason that this profession or industry belongs inherently to the sort of rights which the stranger can not enjoy.

It may be deduced from the foregoing that the Government of the Republic would not have remitted the penalty of the *Star and Herald*, nor would that of the United States have had the right to claim this measure, had the action of the civil and military governor been perfectly equitable. But, as the proceeding against the *Star and Herald* was exceptional and contrary to existing dispositions dictated by the same authority, the Government believed itself obliged to rectify the irregularity of the measures adopted with respect to the periodical. For this purpose it was thought proper to use first persuasive means, which, having been disregarded, decisive orders were pursued.

I have explained and illustrated the conduct of the Government of the Republic in the suspension of the *Star and Herald*, in order to fix the data upon which must be resolved the foregoing question raised by the Government of the United States of America respecting the responsibility of Colombia in the case.

The responsibility of governments for acts which their agents may have done in the exercise of their functions can not be admitted as a universal rule, unless submitted to the conditions which the practice of nations and common equity have established. Such conditions are the following:

(1) That the Government may have known opportunely the unlawful act which its functionary attempted to execute, and may not have desired to prevent it.

(2) That, having the necessary time to obviate the effects of the act of its agent or subordinate, it may not have immediately taken the requisite steps to frustrate those effects; and

(3) That after having received information of the act performed it may not have disapproved the course of the functionary, nor dictated measures for the preventing of similar abuses.

Applying to the case of the *Star and Herald* these most just conditions, admitted by eminent jurists and sanctioned by the practice of states, there clearly results the reason urged by the Republic for disclaiming all official responsibility in the matter. Because, in the first place, bearing in mind the extraordinarily difficult circumstances of such an epoch, which might well be said to savor of war, inasmuch as the public order was still perturbed, it was impossible for the Government to know in the beginning the irregularity of the suspension of the periodical. The conduct of the civil and military governor appeared proper enough at first, because of the abuse of the periodical, and it was much later that the Government was enabled to appreciate the circumstances which made such suspension censurable. And, finally, the Government not only disapproved the conduct of its subaltern, but in a certain way punished it, for the acceptance of the resignation which he presented irrevocably if the orders of the Government were of such nature, was equivalent to this.

Consequently, under the supposition that the *Star and Herald* may have suffered damages due to its suspension, the demand for indemnification to which this fact may give rise should not be made against the Government of the Republic, which, as has already been demonstrated, is not responsible, because innocent. I have made doubtful the hypothesis of damages, because it is a notorious fact that the parties interested in the publication of the *Star and Herald* knew how to avoid the consequences of the measure dictated against them by substituting another for the title of their periodical and continuing, moreover, under ordinary conditions, the publication and distribution of said journal. Thus, when the interested parties formulate, as it appears, their accounts in large figures against our Government, these calculations are based upon a supposition wholly inexact.

The minister of the Republic in Washington, charged with the measures relative to the claim which I have just treated, has defended the nonresponsibility in the sense just expressed.

Mr. Wharton to Mr. Abbott.

No. 94.]

DEPARTMENT OF STATE,
Washington, August 21, 1890.

SIR: I have received your No. 95 of the 18th ultimo acknowledging Department's No. 67 of May 29 last concerning the action of the consul at Colon in the matter of the Smith estate.

You say that the Colombian minister for foreign affairs has promised to discuss the subject with you at an early date and believes that there will be no difficulty in coming to an understanding.

It is hoped that the question may be satisfactorily arranged. The views expressed in Department's instruction above mentioned are, in its opinion, obviously sound.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Abbott to Mr. Blaine.

[Extract.]

No. 120.]

LEGATION OF THE UNITED STATES,
Bogota, August 22, 1890. (Received August 25.)

SIR: I have to call your attention to the present situation of the question as to the interpretation of section 10 of article III of the consular convention of 1850.

The complaint of Consul Vifquain reached this legation about the 1st of December last. I forwarded the same, with comments, to the Department in my No. 48 of December 12 last and asked instructions. As these had not arrived in April, I took the action described in my No. 77 of April 24 last.

At that time it was plainly and particularly agreed between the minister and myself that the case should remain *in statu quo* until about the middle of August, when, it was hoped, my instructions would have arrived and that the press of business caused by the assembling of Congress would have been somewhat lessened. In the meantime nothing was to be done to render the situation more difficult than it then was. What the true situation was neither of us knew, as neither expressed the slightest opinion in the matter.

On my return from my leave of absence, and before I took charge of the legation, I informed the minister that my instructions had arrived, and that I should be ready to discuss the matter with him at the time agreed upon, or before, if he cared to do so; but I did not communicate the nature of the instructions.

On the 18th of July the minister called up the matter himself and said the business of the Congress which was to assemble on the 20th so occupied his attention that he would prefer to leave the discussion until the time originally fixed, when, he had no doubt, an understanding would be easily reached.

Congress assembled on the 20th of July, and the minister's biennial report was theoretically issued on that day; but, in reality, it was distributed and became available on the 4th of August, and not before.

The report contained extended comments upon the Smith case, a copy and translation of which I inclose.

I regarded this action as a distinct violation of our agreement made in April and recognized by the minister as binding upon us as late as the 18th of July, when the above extract must have been in type. It, of course, increased the difficulties of the situation immensely, as his position was diametrically opposed to that contained in my instructions and was publicly avowed.

On the 18th instant I introduced the Smith case and informed the minister of the purport of my instructions, and that I desired to proceed, in the first instance, to an amicable verbal discussion thereof, in the hope that an agreement might be thus more easily reached than by a long written controversy, and that after an agreement the mere crossing of notes in accordance therewith would render the matter clear for the future. The minister seemed to see at once the difficulty which the premature publication of his views might bring him and wished for time to talk with the President.

I acceded to his desire for time to consult with the President and expressed the hope that he would not come to any definite determination to maintain the views expressed in his report until after I had had an opportunity to express the views of my Government. The interview was most friendly and courteous, and the situation was understood and appreciated.

Within 36 hours after I left the foreign office, or, to be exact, at 2:30 o'clock in the afternoon of the 19th instant, I received an official note from the minister requesting me to forward to the United States for service a process of a local court assuming to settle the estate of one Alexander Henry, an American citizen who died in Colombia several years since.

This note was dated August 14, but was not delivered until the 19th, as above stated.

I felt that a compliance with that request would be a direct acknowledgment of the right of that court to claim jurisdiction in the case, which I am not prepared to admit.

When I further considered that the Henry case had been cited by the minister in his published report as an instance of the acquiescence of this legation in the interpretation of article III, section 10, of the consular convention there maintained, I felt that compliance would also involve complete assent to the principle of interpretation that my instructions require me to deny.

I also felt that the process had been sent to me with that end in view.

I therefore returned the process to the minister with a note. A copy and translation of the minister's note and a copy of my reply are herewith inclosed.

As soon as may be I shall have a conversation with the minister, and, if there seems to be no hope of his acquiescence in your views as to the interpretation of the convention, I shall take the usual steps in matters of this kind.

Upon the decision of this case depends the rights of British consuls, as well as those of our own. It is important that it be settled as soon as possible, and I shall push the matter with all convenient speed.

I make a separate report upon the Henry case, brought so prominently to my notice in the minister's report and in his note of August 14.

I am, etc.,

JOHN T. ABBOTT.

[Inclosure 1 in No. 120.—Translation.]

Extract from the biennial report of the minister of foreign affairs.

A citizen of the United States named Susannah Smith having died in Colon intestate and leaving property in Colombian territory, the circuit judge of Colon, the domicile of the deceased, has taken jurisdiction of the settlement of her estate and

has proceeded therein according to law. At the same time the consul-general of the United States has been of opinion that he had a right to take possession of the deceased's property, make an inventory of it, and even sell it, taking as his authority the letter of section 10 of article 3 of the consular convention now in force between the Republic and American Union.

The said reference to the consular convention of 1850 reads:

"ARTICLE 3. The consuls admitted in either Republic may exercise in their respective districts the following functions:

"10. They may take possession, make inventories, appoint appraisers to estimate the value of articles, and proceed to the sale of the movable property of individuals of their nation who may die in the country where the consul resides without leaving executors appointed by their will, or heirs at law. In all such proceedings the consul shall act in conjunction with two merchants chosen by himself for drawing up the said papers, for delivering the property or the produce of its sale, observing the laws of his country and the orders which he may receive from his own government; but consuls shall not discharge these functions in those states whose peculiar legislation may not allow it." * * *

The Government can not recognize as pertaining to the consuls of the United States of America the faculty claimed by the consul-general of Colon, because for said recognition there should exist two conditions: first, that the property left by Mrs. Smith is personal; and, second, that the local laws do not forbid the exercise of the faculty claimed.

Neither of these conditions is present in the "Smith" case.

Not the first, because the property consists of wooden houses, built, it is true, upon land of other owners. But they can not, for that reason, be denominated chattels. Although it may be easy to move the materials and make with them new houses on other land, the distinction between real and personal property can not be derived from that fact. In such case it would follow that, as the machinery for moving houses becomes more and more perfected, the latter would gradually lose the character of real estate, whatever might be the manner of attachment to the soil (*per arraigades que fuesen*).

And, although the civil code of the Republic includes in this class (real estate) only things which are permanently attached to the soil, such provision does not signify the same thing as perpetually, a condition which could be said of no building.

On the other hand, the case has been decided by commentators of note, among whom may be cited Dalloz. "Buildings," says this jurist, "constructed upon land of another are real estate, not only when the proprietor has the right or the duty to appropriate them to his own use by virtue of law or agreement at the expiration of the enjoyment of a third person, but also even when the latter may have expressly reserved the right to destroy them or carry away the materials."

Neither is there present the second condition, to wit, that local legislation permits the consuls to exercise the functions claimed by the consul-general of the United States of America in Colon.

Said condition is definite, since the convention provides that such functions shall not be discharged, except where the states may permit it. The phrase "los Estados" ("those states") does not refer solely to the American Union to the exclusion of Colombia, since there is no reason to suppose that the latter would agree to such a one-sided concession exclusively advantageous to the former.

Whatever modifications the public law of Colombia may have experienced as to the centralized or federative form of the Republic, the power to regulate everything relating to the matter under discussion has always been maintained in its legislation, whether national or state (*una ó varia*).

Even supposing that at the time when the consular convention with the United States of America was signed the exercise of the functions now claimed by the consul-general of Colon might have been permitted in Colombia, the subsequent modifications of the laws would suffice to do away with such powers.

Articles 570 and 571 of the Colombian civil code, 1238 and 1241 of the judicial code, and 162 of law 147 of 1888 expressly determine the standard by which the courts must be guided in the settlement of every intestate estate of this kind, as well as the powers which pertain to foreign consuls in the matter, in a sense entirely at variance with that claimed by the aforesaid agent of the United States of America.

Moreover, the honorable legation of the United States of America, in exactly similar cases, *e. g.*, the intestate estate of Alexander Henry, over which the local courts of Cundinamarca have assumed jurisdiction, has not claimed to exercise, either by itself or its consular agents, any other powers than those guaranteed and permitted by our law.

The law of the Republic as to this class of estates of deceased persons is in entire harmony with universal practice and with the attributes of consuls in civilized countries recognized by international law. What appear to demand certain reforms in this so important matter are the regulations for the delivery of property to the

legal representatives, which, in the opinion of the undersigned, is too much prolonged. So that it happens that the delivery of the property of foreigners sometimes is subject to obstacles and great delay, to the detriment of the property, especially when the latter is in remote situation and deleterious climate.

Among the reforms which I shall have the honor to recommend to you at the conclusion of this report will be found those relative to this point.

[Inclosure 2 in No. 120.—Translation.]

Mr. Roldán to Mr. Abbott.

MINISTRY OF FOREIGN AFFAIRS,
Bogotá, October 14, 1890.

SIR: The judge of the circuit of Tequendama, in the department of Cundinamarca, in whose court are now taking place the proceedings relative to the settlement of the estate of Alexander Henry, a citizen of the United States, has resolved to cite his widow and children, who live in the city of Wheeling, State of West Virginia; and, in the letters rogatory which I have the honor to send herewith, the said judge requests the chief justice of the Ohio county court to have the kindness to cause to be duly served the said summons.

Owing to the circumstance of there being no Colombian agent residing in Ohio through whose medium the letters rogatory could be sent, I am constrained to beg of Your Excellency to be good enough to forward it to its destination; in doing which not only would the dangers of miscarrying the document be avoided, but time would be saved in the settlement of the estate.

Anticipating to Your Excellency the expression of my gratitude for your good advice in the matter, I am pleased to renew, etc.

ANTONIO ROLDÁN.

[Inclosure 3 in No. 120.]

Mr. Abbott to Mr. Roldán.

LEGATION OF THE UNITED STATES,
Bogotá, August 22, 1890.

SIR: I have the honor to acknowledge the receipt, upon the afternoon of the 19th instant, of Your Excellency's polite note of the 14th instant, calling my attention to the fact that the circuit court of Tequendama has assumed jurisdiction in the settlement of the estate of one Alexander Henry, a citizen of the United States, late deceased in Colombia, and requesting me to forward to the United States, for service upon the widow and children of the deceased, a certain process of the said court relating to the case.

It is with extreme regret that I find myself unable to comply with Your Excellency's request, for the reason that such compliance would involve the active aid of this legation in the service of a process of a Colombian court, whose right to take jurisdiction in the premises I am not at this moment prepared to admit.

But the principal reason which inclines me to my present decision is found in the fact that the Henry case was cited in Your Excellency's report to Congress as an instance of the acquiescence of this legation in the interpretation there maintained of article 3, section 10, of the consular convention.

Under such circumstances, a compliance with Your Excellency's request would be a direct admission of the correctness of such interpretation.

In view of the fact that we have agreed to proceed to an early and amicable interchange of views as to the true interpretation of the said convention, I feel that nothing ought to be done to render the situation more difficult or to prejudice the position of either Government.

I am therefore constrained to return the process without further action.

I take this occasion, etc.,

JOHN T. ABBOTT.

Mr. Abbott to Mr. Blaine.

No. 121.]

LEGATION OF THE UNITED STATES,
Bogota, August 22, 1890. (Received September 25.)

SIR: In my No. 120 of this date I refer to the manner in which was brought to my notice the settlement of the estate of Alexander Henry, an American citizen who died here some years since. I had previously learned from Consul-General Walker that there had been some difficulty in reference to obtaining possession of a certain check belonging to the estate of the deceased, but had not known that jurisdiction was being exercised by a Colombian court.

The following is a statement of the result of my examination of this case:

July 15, 1886, the foreign minister, Dr. Restrepo, wrote to Mr. King, informing him of Mr. Henry's death, and that, having in view article 3, section 10, of the consular convention, the Government had requested the proper authorities to give their attention to the case in the manner prescribed in article 1067 and 1068 of the civil code of Cundinamarca.

Mr. King replied, under date of July 19, fully acquiescing in the action of the minister, as he knew of no facts to justify any other course than that pursued in the case.

Mr. King, in his No. 52 of July 22, 1886, transmitted to the Department a copy and translation of Dr. Restrepo's note and a copy of his reply thereto.

Since 1886 there seems to be no reference to the "Henry" case upon the files of this legation.

An examination of the archives of the consulate-general shows—

That the Department wrote Mr. King under date of December 2, 1886, but the letter can not be found.

On January 21, 1887, Mr. King asks the consular agent at Honda to inform him of the residence of Mr. Seamon, said to be administrator of Henry's estate.

I find, also, an unsigned copy of a letter dated February 7, 1887, and apparently sent by Mr. King to the foreign minister, a copy of which I inclose. It is headed as from the legation, but does not appear in the legation's archives; nor can I find any answer thereto.

February 14, 1887, Mr. King sent his No. 8 (consular series), to which I refer.

November 4, 1887, is the date of Mr. Addee's No. 3 to Mr. Walker.

I next find Mr. Rives's No. 8 to Mr. Walker, dated May 7, 1888, transmitting a power of attorney from Thomas Seamon, administrator, to Henry Hallam and James Wilson, empowering them to settle the estate of Henry. With it is the original power of attorney, which, apparently, has never been delivered to Hallam or Wilson, and, as Wilson is now said to be an imbecile and Hallam lives in Honda, it is quite useless to deliver it.

Under date of November 27, 1888, I find a record of a letter from Mr. Bashell, acting consul-general, to General Morgan, of Girardot, requesting him to take possession of all of Henry's personal property, sell the same, and remit the proceeds to him. Mr. Bashell says that Minister Maury took this letter to Girardot and gave it to General Morgan, but he never heard of any result from it.

I next find the No. 14 of Mr. Addee to Mr. Walker, dated December 9, 1889, and, lastly, Mr. Walker's No. 21 of May 28, 1890, to Mr. Wharton.

This comprises all I can discover in the utterly disordered archives of the consulate here in reference to this case.

It seems that Mr. King acknowledged the rights of the courts of Cundinamarca to take jurisdiction, but, inferentially, upon the ground that the property was all real estate. Still, the whole case has apparently proceeded recognizing that right.

It will be appreciated that, owing to the disordered condition of the consular archives and the fact that nearly everything in connection with the case occurred before I took charge of this legation, I do not feel certain that the whole proceedings are well understood.

It is not impossible that the "Henry" case may present a totally different aspect from that of the "Smith" case. To explain:

Prior to the last revolution the nine States of Colombia were quite as independent as the States of the United States. Each made its own laws relative to the settlement of estates. The law of the State of Cundinamarca will be found in inclosure No. 2 of my No. 48 of December 12, 1889. This law was the law of a "State" and was in force as such up to August 6, 1886, when the new constitution went into force in matters of this kind and the "State" of Cundinamarca was reduced to a "department," and continued in force in the new department from said August 6, 1886, up to July 22, 1887, by virtue of additional article 8 of the new constitution, a copy of which is on the Department files. On the latter date the present national civil code became operative.

So that at the time of the death of Henry in Cundinamarca, June 30, 1886, the civil code of Cundinamarca was in force as a law of a sovereign State, and so continued for 37 days thereafter, during which time, I am informed, the court took jurisdiction.

But of this I am not yet certain and have not the means to ascertain immediately. It certainly had taken jurisdiction before July 22, 1887, up to which date, beginning August 6, 1886, the civil code of Cundinamarca was in force by virtue of the authority of the new constitution, *i. e.*, an authority exercised by the Central Government.

Therefore, the question may arise whether the provisions of the law of Cundinamarca at the time of Henry's death and the taking of jurisdiction by the court must not be construed to be a law of a "state whose peculiar legislation does not permit" the settlement of estates by consuls. In case of such construction, there would be presented the situation mentioned in your No. 67 of May 29 last.

Cundinamarca was as much a state, up to August 6, 1886, as is New York or Virginia. It is true that it was erected after the date of the consular convention, as were Colorado and Wyoming.

This case is therefore not so free from doubt as is the "Smith" case, in which the views of the Department are so manifestly in accordance with reason and common sense.

As I am anxious not to complicate matters in that case by any erroneous claims in the present one, I have concluded to delay any protest or argument herein until the views of the Department are known.

I will add that the summons to the widow and children of Henry, which I declined to forward, as noted in my No. 120 of this date, is dated March 10, 1887. It states that the property amounts to more than \$1,700 (pesos) and that it is in the possession of James Wilson and Carlos Saénz. The latter is said to be an excellent man, and I have no doubt that anything in his possession has been properly cared for. I shall continue to give this matter my attention.

I am, etc.,

JOHN T. ABBOTT.

[Inclosure in No. 121.]

*Mr. Abbott to Mr. Angulo.*LEGATION OF THE UNITED STATES,
Bogota, February 7, 1887.

SIR: On the 15th of July last Your Excellency's predecessor in the department of foreign relations favored this legation with a notice of the death of Alexander Henry, late a citizen of the United States, and with the information that the authorities of Cundinamarca had been instructed in regard to the property belonging to the deceased.

I now have the honor to inclose for Your Excellency's inspection properly certified letters of administration, showing the appointment of Thomas Seamon as administrator of the said decedent's estate, and to request that Your Excellency will further instruct the authorities of Cundinamarca touching the appointment of the administrator and the functions and powers to be exercised by him under the said letters.

I beg leave, also, respectfully to request that Your Excellency will return the inclosed letters as soon as they have subserved Your Excellency's purpose, in order that they may be filed in this legation.

With sentiments, etc.,

JOHN T. ABBOTT.

Mr. Blaine to Mr. Abbott.

No. 114.]

DEPARTMENT OF STATE,
Washington, October 10, 1890.

SIR: I have to acknowledge the receipt of your No. 120 of the 22d of August, in relation to the case of the estate of the late Mrs. Smith, at Colon, which formed the subject of Department's No. 67 of May 29 last. It is regretted that the declaration of opinions made in the report of the minister of foreign affairs to the Colombian Congress should have anticipated the discussion of the matter with the legation of the United States, especially as that discussion had long previously been arranged for with the express object of endeavoring to effect a conciliation of the conflicting views held by this Government and the Government of Colombia on the question under consideration. What answer the Government of Colombia would have made, or may yet make, to the reasons set forth in your instructions for the position of the United States, the Department will not undertake to conjecture. It is enough at present to say that there is nothing, in the judgment of the Department, in the report of the minister of foreign affairs to affect the position of this Government; and if, before the publication of that document, the minister of foreign affairs had known and considered the views of this Government, it is not supposed that he would have been content with the definition of his position that the report contains. His arguments are anticipated, and more than anticipated, in the instructions of this Department; and, although he may, by reason of the publication of his report, find it somewhat difficult to meet our views, yet it can hardly be expected that this Government will, for that reason, abandon its position or abate anything of its demands until they shall be shown to be erroneous.

If the position of this Government had been understood, the effort made in the report to demonstrate that property can not be regarded as personalty merely because machinery may be devised to move it would doubtless have been deemed quite irrelevant and superfluous.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Abbott.

No. 115.]

DEPARTMENT OF STATE,
Washington, October 10, 1890.

SIR: I have to acknowledge the receipt of your No. 121 of August 22 last, in relation to the case of the estate of the late Alexander Henry.

Your action in declining to transmit any papers in regard to it, upon the request of the ministry of foreign affairs, is approved. The request was apparently made with a view to affect the case of the estate of Mrs. Smith, which forms the subject of your No. 120. It is true that the facts of the two cases seem to be so different as to destroy any connection between them, but, as they have been blended in the recent report of the minister of foreign affairs to the Colombian Congress, it will be proper to take no action that may further prejudice the promised discussion of the case of the estate of the late Mrs. Smith, upon the stipulations of the treaty, as they have been interpreted in Department's No. 67 of the 29th of May last.

I am, etc.,

JAMES G. BLAINE.

Mr. Adee to Mr. Abbott.

No. 120.]

DEPARTMENT OF STATE,
Washington, October 24, 1890.

SIR: You are aware that at the time you entered upon your mission there was pending between the Government of the United States and the Government of Colombia a negotiation for the settlement by arbitration of certain claims of citizens of the United States upon the Government of Colombia. You will find in the archives of your legation ample information as to the character of these claims and the progress of these negotiations.

On July 31, 1889, you wrote this Department that you had been strongly impressed with the conviction that the Government of Colombia was very much disinclined to settle these claims by arbitration and was disposed to insist that they should be settled by regular proceedings in the native courts of Colombia.

Your dispatch was acknowledged, but no special instructions were sent you, for the following reason:

The states of South and Central America had accepted the invitation of the United States of America to meet in friendly conference in October of the same year, and among the subjects to be submitted to their joint deliberation was the project of a general system of arbitration, by which all questions of difference between them might be both promptly and amicably settled. This Government thought it not injudicious to suspend its discussion of these special claims, in the hope that the adoption of some such general system of arbitration would facilitate their final settlement.

As you are also aware, such system was recommended by the conference, and after the adjournment of that body a treaty of arbitration between themselves was signed by the following nations:

Honduras, Bolivia, Ecuador, Guatemala, Haiti, Nicaragua, Salvador, United States of Brazil, United States of Venezuela, and the United States of America.

It has been a matter of regret to the United States that, notwith-

standing the very able and efficient service of the delegates from Colombia in the debates of the conference, the Government of Colombia has not as yet become a party to that treaty by its signature.

Of course, this Government has neither the disposition nor the right to press upon the consideration of Colombia action of the wisdom and propriety of which that Government is the sole judge. But, while waiting with hopeful anticipation a final agreement upon so important a subject, the Government of the United States finds itself forced to recall to the attention of the Government of Colombia the necessity of an early settlement of these claims, the consideration of which by the Colombian Government has not been as prompt or as satisfactory as the United States had a right to expect.

The discussion, although full and friendly, has been postponed and delayed by the necessity of constant references back to their Government by the Colombian ministers, and, if we can not confidently anticipate the consent of the Colombian Government to the system of general arbitration, the United States will be constrained to urge upon the Colombian Government the settlement of these claims.

The questions involved are grave and the interests at stake large, and it is very desirable that, guiding yourself by these instructions, you should learn from the Government of Colombia whether it is prepared to give its minister full and sufficient authority to take up their discussion with the Department with a view to their early and final settlement.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Abbott to Mr. Blaine.

[Extract.]

No. 145.]

LEGATION OF THE UNITED STATES,
Bogota, October 24, 1890. (Received November 22.)

SIR: In continuation of the question of the interpretation of section 10 of article III of the consular convention of 1850, which was the subject of my No. 120 of August 22 last, I herewith inclose a copy and translation of the minister's reply to my note of August 22, which was forwarded to you as inclosure No. 5 in said dispatch.

In the *Diario Oficial* of August 24, which was distributed about September 1, appeared a "resolution" signed by the foreign minister in reply to an inquiry of the governor of Panama in relation to the "Smith case." Reciting the arguments employed in inclosures No. 1 and No. 2 of my said No. 120, the "resolution" informs the governor that the proceedings of the judge of Colon have been in accordance with Colombian law, with the treaty with the United States, and with the principles of the law of nations. This conclusion is not so remarkable as the fact that the "resolution" was dated on the 19th of May and only published on the 24th of August.

About September 1 I received notice from the consul-general at Panama that the judge had "decided against us in the matter of Mrs. Smith's estate," and that the case had been referred to the superior tribunal at Panama. The consul-general furthermore asked if he "should or should not pay any attention to this case in court any further."

On September 5 I wrote to the consul-general that I thought he

"must continue to answer all lawful summonses of the Colombian courts, depending for final success upon diplomatic action here," and advising him to "keep a strict account of all your (his) expenses and losses."

All these proceedings on the part of this Government seemed to me contrary to the understanding I had reached with the minister, as I explained in my No. 120 aforesaid.

Still, the minister had always been so absolutely straightforward, even in the most trivial matter, that I felt it his due to seek an explanation; and in the first week in September I called upon him for that purpose. He said that he fully understood that the houses in question were not to be sold until after we had reached a decision here, but that he could not "order" an absolute suspension of court proceedings, on account of the entire independence of the judiciary in respect of the executive department. He said that he was assured that no definitive action would be taken by the courts of the Isthmus until the result of the discussion here was reached, and that nothing had occurred that would prevent him from considering the question fairly and impartially. He furthermore said that he would write to the authorities of the Isthmus, asking that no decisive steps be taken in the "Smith case" until the result of our conferences should be ascertained.

The minister and myself have had several short informal conversations in regard to the subject under discussion, which have been unimportant, except as they indicate a desire on his part to consider the same in a conciliatory and friendly spirit. His constant duties in Congress and the general press of business have made it practically impossible for me to engage his serious attention. I have therefore not pressed the matter as diligently as I otherwise should have done, believing that it will be better to enter upon the serious discussion when the minister is not so preoccupied as he is at present.

I had hoped to report more progress in this matter before now, but believe that undue pressure just at this juncture would do no good. I trust that the Department will not think me negligent on account of the delay, which will be continued no longer than is deemed necessary.

I am, etc.,

JOHN T. ABBOTT.

[Inclosure in No. 145.—Translation.]

Mr. Roldán to Mr. Abbott.

REPUBLIC OF COLOMBIA,
MINISTRY OF FOREIGN AFFAIRS,
Bogotá, August 25, 1890.

MR. MINISTER: I have the honor to refer to the very polite note of the 22d instant, in which Your Excellency has been good enough to return to this department the letters rogatory of the judge of the circuit court of Tequendama to the judge of the court of the county of Ohio in the United States, relative to the estate of Alexander Henry, because for certain reasons you are unable to transmit the documents to their destination.

I improve, etc.,

ANTONIO ROLDÁN.

CORRESPONDENCE WITH THE LEGATION OF COLOMBIA
AT WASHINGTON.*Mr. Blaine to Mr. Hurtado.*DEPARTMENT OF STATE,
Washington, January 31, 1890.

SIR: I have the honor to recall to your attention the claim against the Government of Colombia growing out of the suspension in 1886 of the *Panama Star and Herald*, a newspaper published in Colombia by an American corporation.

The facts in the case may briefly be summarized as follows:

The *Star and Herald* and *La Estrella de Panama* Company, limited, was incorporated on or about the 17th of December, 1883, under the laws of the State of New York. The company was organized by citizens of the United States, employs American capital, and has its principal office in the city of New York. On March 25, 1886, Gen. Santo Domingo Vila, then civil and military governor of the national department of Panama, addressed to the editor of the *Star and Herald* a personal note, inclosing copies of certain telegrams and suggesting their publication, if the editor should deem it expedient, the language employed being "si lo tiene á bien y lo considera conducente." As the telegrams gravely reflected upon General Montoya, a brother officer of Gen. Santo Domingo Vila, the editor of the *Star and Herald* very properly, desiring to hold aloof from the political controversies prevailing in Colombia, as well as to avoid a suit for libel, did not make the suggested publication. Moreover, in adopting this course, he was acting in accordance with the warning given him by the President of Colombia in the preceding year, when a circular order was issued for the suspension of all newspaper offices throughout the Republic until after the meeting of a convention then about to be called for the revision of the national constitution.

The President of the Republic subsequently excepted the *Star and Herald* from the operation of the order, but in so doing cautioned the editor to observe "strict circumspection as to political subjects."

No complaint has been made that the editor of the *Star and Herald* disregarded this injunction. Gen. Santo Domingo Vila invited him to violate it, and, besides, to expose himself to prosecutions. The editor, adhering to the wise and proper course which he had theretofore been pursuing, and also acting upon the discretion expressly left him, did not publish the telegrams. As above stated, the note of Gen. Santo Domingo Vila, inclosing the telegrams, bore date of March 25, 1886. On the following day, the 26th of March, he, as the civil and military governor of the national department of Panama, issued an order summarily suspending the publication of the *Star and Herald* and announcing as the reasons for his action that the editor of the paper had refused to publish documents of importance relating to the policy of reform in the administration of the department, "without even having the courtesy to answer the polite private note (*esquela*) which accompanied them." The suspension of the paper was continued until May 24, 1886, when the President and secretary of interior of the Republic commanded Gen. Santo Domingo Vila to reëstablish it, or, in default thereof, to surrender his office into the hands of General Rengifo. On the day following Gen. Santo Domingo Vila replied that the term of suspension had expired and at the same time tendered his resignation as civil and military governor, which was accepted.

During the suspension of the paper protests were made on the part of this Government against the action of Gen. Santo Domingo Vila, but, although that action was manifestly arbitrary and wrongful and has never been defended, the suspension was permitted to continue for 2 months. It was attended with serious detriment, not only to the rights of the company under the treaty as an American corporation, but also to its pecuniary interests. Had the acts complained of been committed in time of war, that fact might have been referred to as in some measure a palliation of them, though not as a justification; but they were perpetrated in time of peace, when the civil laws were in full force, by the officer whose duty it was to see that those laws were maintained. It is now nearly 4 years since the *Star* and *Herald* was suspended, but the company has been afforded no redress at the hands of the Colombian Government for the grave wrong inflicted. Such redress, it is thought, should now be tendered.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Hurtado.

DEPARTMENT OF STATE,
Washington, May 7, 1890.

SIR: I have the honor to recall to your attention my note of January 31 last, relating to the claim of the *Panama Star* and *Herald* against the Government of Colombia.

This Government earnestly desires to reach a settlement of the case, and hopes it may soon receive a proposition which will lead to its adjustment.

Accept, etc.,

JAMES G. BLAINE.

Mr. Hurtado to Mr. Blaine.

LEGATION OF COLOMBIA,
Washington, May 9, 1890. (Received May 12.)

SIR: On my return to Washington, after an absence of several days, I have had the honor to receive your esteemed note of the 7th instant, in which you call my attention to your communication of the 31st of January last past, hitherto not acknowledged, for which omission I beg to present my excuses and crave your indulgence.

Your said communication refers to the claim preferred against the Government of Colombia for the act of Gen. Santo Domingo Vila, at the time civil and military governor of the department of Panama, when in the year 1886 he gave an order prohibiting the publication of the *Star* and *Herald* newspaper for a period of 60 days.

From my last interviews with your predecessor on the subject of this complaint, I had gathered the inference that this question would not be supported by the Department of State as a claim against the Government of Colombia, at least while it remained in its present aspect and condition, that is to say, not before the courts of Colombia declared the act of Gen. Santo Domingo Vila to have been within the scope of his legal authority, and I communicated this impression to my Government.

On receipt, therefore, of your note on the 31st of January last, I made known its contents to the minister of foreign affairs in Bogota; and not having as yet received special instructions in reference thereto, I must adhere to those previously given me, whereby I was ordered that, in the event of the claim in question being urged as against the Government of Colombia, I should represent and submit that, since the act of Gen. Santo Domingo Vila had been disavowed, redress for the consequences thereof should be sought through an action against him personally before the courts of Colombia, and that only in case the court cleared him from responsibility on the grounds that he had acted within the scope of his legal authority could liability attach to the Government of Colombia.

The remarks contained in your note of the 31st of January last are directed to show that not even colorable cause existed to justify the proceedings of Gen. Santo Domingo Vila on the occasion in question; and the action taken in reference thereto by the executive department of Bogota, ordering the suspension of the publication to be removed, lends strength to the views you express. The laws of Colombia afford redress against public functionaries who transgress their authority, rendering them amenable before the courts of the country and liable for injuries they may cause, even should they act under the cover of their official position. In no case, however, is the Government responsible for such misdeeds, unless it adopts and makes its own the cause of the official at fault. The nonresponsibility of a government for the acts of its citizens, unless it upholds them, is not peculiar to the legislation of Colombia. The rule has been adopted by most, if not by all, constitutional governments, and is contained in a declaratory form in treaties between the United States of America and every other nation on this continent; it may be said to have now become an acknowledged principle of American international law.

The preceding considerations lead to the unavoidable conclusion that the reparation which the Star and Herald claimants are in quest of for the injuries they are alleged to have suffered through the suspension of their journal by order of Gen. Santo Domingo Vila must be sought by bringing suit against him before the courts of Colombia, and only in the event of the courts declaring that the act complained of was within the authority vested in the civil and military governor of the Department of Panama, thereby defeating the action for damages as against the defendant individually, could any liability accrue to the Government of Colombia for the injuries sustained by the plaintiffs in the case.

In conclusion, I beg to remark, with reference to the observation contained in the closing paragraph of the note to which I have the honor to reply that, if nearly 4 years have elapsed without the Star and Herald Company obtaining redress for the wrong inflicted on them, it is owing to the fact that the claimants have not applied for a remedy through the proper channel, namely, the courts of Colombia.

Immediately upon the suspension of the Star and Herald being ordered, the measure was protested against by the representatives of the United States, and the matter was brought to the attention of the Government at Bogota. As an act of international courtesy, the Executive interfered, seeking to afford relief to the claimants. Presuming at first that the suspension had been ordered for good and valid reasons, Gen. Santo Domingo Vila was asked to reduce its extent or duration, but, when the Government at Bogota became possessed of a full knowledge of the facts connected with that deplorable incident, it de-

manded of Gen. Santo Domingo Vila that he either revoke his order or at once resign his office into the hands of General Renjifo.

This demand of the President of Colombia was not intended to relieve the Star and Herald Company from the consequences of the restraint placed upon them, for, when it was made, the term of suspension of publication had nearly expired. Its object was to mark in the strongest possible manner the disavowal by the Government of the proceedings of Gen. Santo Domingo Vila, to afford satisfaction for the remonstrances made through the representatives of the United States respecting the suspension, and to allow the consequences of the unjust measure to fall heavily on its responsible author. When the position which Gen. Santo Domingo Vila occupied in his own country is taken into consideration, it can not be denied that there was no partiality shown him in the course that was followed by the administration.

Later on a claim against the Government of Colombia was presented to the minister of foreign affairs for injuries alleged to have been suffered by the Star and Herald Company in consequence of the suspension of their journal. The executive department had shown its willingness to favor the claimants to the utmost extent within its authority; but it was powerless to deal with the question in the new form it had assumed, nor was the claim considered proper or just as against the Government of Colombia. The claim has for its foundation—and it could rest upon no other—the infringement of treaty stipulations, and section 4 of article 35 of the treaty of December, 1846, between the two Governments clearly points out who the responsible party is in the case under consideration, and thereby absolves the Government of Colombia from the pecuniary liability which it is asked to assume.

With the highest consideration and esteem,

I have, etc.,

J. M. HUERTADO.

FRANCE.

Mr. Reid to Mr. Blaine.

No. 29.]

LEGATION OF THE UNITED STATES,
Paris, July 16, 1889. (Received July 29.)

SIR: I submit herewith a synopsis of the new law on French nationality recently passed by the Chambers and gazetted under date of June 26, with a translation of its principal clauses. This law, which had been in preparation for over a year, works quite a change in the legal status of the large class of foreigners residing in France or born there, and will affect many American citizens.

The law deals with two points: French citizenship and the right of domicile in France.

With reference to the first point, it departs widely from the doctrine *jus sanguinis*, formerly so strictly adhered to by France, as well as by all the Latin races, and makes a decided step in the direction of the doctrine *jus soli*, followed generally by the nations where common law is practiced. It still maintains, as the old law did, that the son of a Frenchman is French wherever he may be born, but it makes nearly all those born in France French, the only practical exception to the rule being in the case of those whose fathers were not born, like themselves, in France and who were not living in France at the time of their coming of age.

Concerning the second point, the law is more restrictive than the old one and tends to force French citizenship on the foreigners residing in France.

The following analysis will show the scope of the law and how it is intended to operate:

I.—WHO ARE NATURAL-BORN FRENCH.

(1) Those whose fathers were French at the time of their birth, whether born in France or abroad.

(2) Those born in France whose fathers were also born in France, although not French. Formerly they could claim French citizenship; now they have no option, but are made French citizens.

(3) Those born in France whose fathers were not French and not born in France, if they reside in France at the time of their coming of age, unless they then disclaim French nationality and prove by a certificate of the Government of their father that they have retained his nationality. Formerly they retained the nationality of the father, unless they claimed French citizenship; now they take French nationality, unless they claim the citizenship of the father.

It thus appears—

(1) That the son of a naturalized French-American who happens to be born in France is French.

(2) That the son of a native American, established in France for business purposes, is also French if he fails to claim his American citizenship at the age of 21 and if he is not supported in this claim by the United States Government.

(3) That the son of a Frenchman born in the United States is French; and, as the law is silent as to any limitation in this respect, there may be, according to this doctrine, many generations of Frenchmen born in the United States—a doctrine which, if it were enforced by the other European nations, would make every native-born American the subject of another country.

II.—HOW FRENCH CITIZENSHIP IS ACQUIRED.

French citizenship can be acquired by foreigners in the following manner:

(1) By obtaining the right of being domiciled in France, and after 3 years of such authorized domicile.

(2) By 10 years of uninterrupted residence in France without having applied for the right of domicile.

(3) By marrying a French woman, and after 1 year of authorized domicile.

(4) By rendering any important service to France, and after 1 year of authorized domicile.

(5) If born in France from an alien and not domiciled there, by claiming, up to the age of 22, French citizenship and residing in France, or by submitting to the French military laws.

(6) If a woman, by marrying a Frenchman or through the naturalization of the husband if she so desires.

(7) If a minor, by the naturalization of the father, unless he disclaims French nationality when coming of age. In the old law it was the reverse; the minor child of a naturalized Frenchman had to claim French citizenship.

French citizenship is not conferred by courts of justice, but by a decree of the executive power. The law makes no difference between a native and a naturalized citizen, except that the latter can be elected to the Chambers only 10 years after his naturalization.

III.—HOW FRENCH CITIZENSHIP IS LOST.

A Frenchman loses his national character—

(1) By obtaining, upon his application, foreign naturalization if released from all military obligations in France. If not so released, by securing first the authorization of the French Government.

(2) By accepting an office from a foreign Government which he refuses to resign if requested to do so by his own Government.

(3) By taking military service abroad without the authorization of his Government.

(4) If a woman, by marrying a foreigner, unless her marriage does not, by the laws of her husband's country, give her his nationality, in which case she remains French.

Two very important consequences follow from the provisions of this section:

First. The naturalization abroad of a Frenchman who has not complied with the French military laws is void unless he has beforehand secured the authorization of his Government.

Formerly the French Government admitted, although reluctantly and only after being pressed, that a Frenchman naturalized abroad was disqualified from serving in the French Army, and when cases of this kind were brought before French courts of justice they invariably decided them in that sense, because the old statute did not allow them to do otherwise. Now this door is shut. An American citizen of French origin called to perform military service in France can no longer be released by applying to the courts, which will have to be governed by the new statute.

Second. No Frenchman can now be considered as having lost his original national character simply by the effect of the laws of another country. The new law requires that he shall be a party to the act; he must apply for his naturalization or do something of his own free will to obtain it. Native Americans of French parentage are not, therefore, Americans in the eye of the new statute, and are liable to military service in France. For the same reason the minor children of a Frenchman who acquires American citizenship are held to be not Americans, but French.

IV.—HOW FRENCH CITIZENSHIP IS RESUMED,

(1) By residing permanently in France and by applying for a decree reinstating him in his original citizenship. No time is specified. The decree can be issued at the will of the Government. Under the old statute 1 year's residence was required. This provision, however, does not apply to the Frenchman who has lost his citizenship by taking military service abroad without the consent of his Government. He must follow the process of ordinary naturalization.

(2) In the case of a French woman who married a foreigner, and whose marriage is dissolved either through the death of the husband or through divorce, simply by establishing her domicile in France with the permission of the Government.

(3) In the case of minor children born abroad of an alien who was originally French and who is restored in his rights, by the same act making the restoration of the parent; but when coming of age they have the right to disclaim French citizenship.

(4) In the case of minor children of a French woman, widow of an alien, who asks to resume her original national character, by applying for French citizenship through their mother or through their legal guardian.

(5) In the case of children of a father or of a mother originally French, simply by claiming French citizenship, whether born in France or abroad, and at any age.

A foreigner of French parentage who recovers his original nationality enjoys, *ipso facto*, all the political rights of other Frenchmen.

V.—RIGHT OF DOMICILE.

With reference to the right of being domiciled in France, the new law makes no direct change, but it states that all the permissions given heretofore to that effect will expire in 5 years from the date of the present law and will not be renewed in favor of those who within that period have not applied for naturalization or whose application for naturalization has been rejected.

This stipulation affects seriously all the Americans doing business of any kind in France. To make this plain, it is necessary to recall here

that, as regards foreigners, the right of domicile in France differs widely from residence. A foreigner may possess real estate in France and reside 20 years in his own house without being legally domiciled there. To be so domiciled, he must secure a permission, which is considered as the first step towards naturalization. This permission gives no political rights, and perhaps not one out of twenty of those who apply for it have any intention of being naturalized. But legal domicile carries with it two important privileges, without which a foreigner has no security in France and can hardly carry on business: it secures him from being expelled at the will or caprice of any prefect without explanation, and it dispenses him from giving security each time he has any action before a court of justice, whether as plaintiff or as defendant.

Many of the Americans engaged in business in France have acquired legal domicile here, but in 5 years from now, or, more exactly, from the 26th of last June, they will either have to apply for formal naturalization or be liable to immediate expulsion, besides the difficulties and annoyances which await every foreigner who has to appear in a French court of justice.

One or two points remain doubtful in this new law; but one of its clauses provides for certain regulations not yet published which will very likely explain these and may then be made the subject of another communication.

I have, etc.,

WITELAW REID.

[Inclosure in No. 29.—Translation.]

New French Law Respecting Nationality, Promulgated June 26, 1889.

Article 1. Modifies a number of articles of the civil code. Article 8 of that code is made now to contain the following provisions:

Are French.—Paragraph 1. Any person born in France of a foreigner who was himself born there.

2. Any person born in France of parents unknown or whose nationality is unknown.

3. Any person born in France of a foreigner who himself was born in France.

4. Any person born in France of foreign parents and who at the time of his majority is domiciled in France, unless within the year following said majority, as fixed by French law, he has declined French nationality and proves that he has preserved the nationality of his parents by means of an attestation in due form from his government, which attestation shall remain annexed to his declaration, and by producing, besides, if there is occasion to do so, a certificate showing that he has complied with the call to perform military service in compliance with the military laws of his country, except the cases provided for in treaties.

Can be naturalized—

(1) Foreigners who have obtained the authorization to be domiciled in France and who have 3 years of such domicile.

(2) Foreigners who can prove an uninterrupted residence of 10 years in France.

(3) Foreigners who have had 1 year of authorized domicile in France, if they have rendered important services to France.

(4) Foreigners who marry French women and after 1 year of authorized domicile.

Article 9 of the civil code says now: "Any person born in France of a foreigner and not domiciled there at the time of his majority can claim French nationality at the age of 22 by establishing his domicile in France."

Article 10 states that any person born in France or abroad from parents one of whom had been French can claim French citizenship at any age by establishing his domicile in France.

Article 12 says: "A foreign woman who marries a Frenchman takes the nationality of her husband."

A woman married to a foreigner who becomes French by naturalization, and the children of this foreigner who have attained their majority, can claim French citizenship by complying with the law of domicile. The minor children become French, unless in the year following their majority they decline French citizenship by complying with the requirements of article 8, paragraph 4.

Article 17 says: Will lose the quality of French citizen—

(1) The Frenchman naturalized abroad or who, upon his application, acquires foreign citizenship through the operation of law. If still liable to military obligations in the active army, naturalization abroad will not entail the loss of French citizenship, unless such naturalization has been authorized by the French Government.

The remaining paragraphs of the article enumerate the other cases in which Frenchmen lose their nationality by accepting abroad public office and refusing to resign it and by taking military service in another country without the consent of the Government.

Article 18 states how those who have lost French citizenship may recover it.

Article 19 says: "A French woman who marries a foreigner takes the status of her husband, unless her marriage does not confer upon her the nationality of the husband, in which case she remains French."

Article 21 (of the code): "A Frenchman who, without the authorization of the Government, takes military service abroad, can enter France only with a permission granted by a decree and can recover the quality of Frenchman only by complying with the conditions exacted from a foreigner to be naturalized."

Article 2 of the law states that it shall be applicable in the French colonies.

Article 3 confers on naturalized foreigners all the civil and political rights enjoyed by born Frenchmen.

Article 4 enables the descendants of the families proscribed after the revocation of the Edict of Nantes to resume French citizenship.

Article 5 provides for regulations with reference to the mode of application of the law, which are not yet published.

Article 6 repeals former laws and decrees contrary to the present one.

Mr. Reid to Mr. Blaine.

No. 99.]

LEGATION OF THE UNITED STATES,
Paris, November 26, 1889. (Received December 10.)

SIR: My dispatch No. 79 of October 19 advised the Department that General Franklin and myself had called on Mr. Spuller and stated that, if the French Government still entertained any doubts as to the healthfulness of American pork, we were instructed to invite an official inspection of the products of that class then at the exhibition, which were, for this purpose, placed entirely at the disposal of the French authorities.

Mr. Spuller having agreed to confer on the subject with his colleagues, an answer was expected before the close of the exhibition. After waiting 10 days beyond that date, I wrote again to the minister on November 16, explaining that the exhibitors of American pork were only awaiting his decision to pack and remove their goods; that, with a view of lending his assistance to the French inspectors, Mr. Bickford, superintendent of the agricultural section, had postponed his departure to the 27th; and that, if an inspection was to be made, it ought to take place before that date.

On the same day the French officials at the exhibition gave notice that the demolition of the agricultural gallery (where the American pork was placed) must begin on the 25th. Informed at once of this fact by Mr. Gunnell, engineer of the United States commission, I again, under date of the 18th, addressed Mr. Spuller, calling his attention to this additional reason for early action on the offer I had made, under instructions from my Government, over a month ago.

On the 21st Mr. Spuller replied, stating that, in the opinion of his colleague who had charge of the health department, an inspection of the meat shown in the exhibition would not have the importance my letter seemed to give it, as the superior quality of this meat, established already

by the awards it received, would not prove that the mass of American hog products is equally good. With the wish, however, to comply as far as possible with your intentions, a French professional inspector would place himself at the command of Mr. Bickford to receive any information and explanations on the subject.

The substance of this reply was communicated to Mr. Gunnell, and Mr. Oharrin, the French inspector, and Mr. Bickford are now in communication.

I have, etc.,

. WHITELOW REID.

Mr. Blaine to Mr. Reid.

No. 114.]

DEPARTMENT OF STATE,
Washington March 4, 1890.

SIR: I inclose for your information, in connection with previous correspondence upon the subject, a copy of a letter from the Secretary of Agriculture of February 18, 1890, respecting the harsh and unreasonable restrictions imposed by the Governments of France, Germany, and Great Britain against the importation of America live animals and hog products.

Without inviting attention to any particular statements of Mr. Rusk's letter, I have only to state that you may find fitting opportunity to call them up before the minister for foreign affairs, and, in so far as France is concerned, express the hope that his Government may now be prepared to extend equitable relief from its unjust measures, either through their revocation or modification.

Adding that your colleagues at London and Berlin have been furnished with a copy of the inclosed letter, and awaiting whatever information upon the subject you may obtain,

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 114.]

Mr. Rusk to Mr. Blaine.

DEPARTMENT OF AGRICULTURE,
Washington, February 18, 1890.

SIR: I have the honor to invite your attention to certain regulations and prohibitory restrictions which are enforced by a number of European governments to the great detriment, and in some cases to the destruction, of the trade in live animals and meat products from the United States, and to request that you take such action as may be possible looking to a removal of such restrictions or their modification in favor of American producers.

In 1879 the British Government made regulations that all cattle, sheep, and swine from this country should be slaughtered at the wharves within 10 days from time of landing. The effect of this order is to entirely exclude store cattle and sheep shipped for fattening purposes; and it considerably reduces the amount which can be realized for fat animals, because these can not be held until they have recovered from the effects of the voyage, and also because the buyers know that they must be disposed of within a limited time.

The order in regard to cattle was issued on account of the existence of the contagious pleuro-pneumonia of cattle in this country, but since its issuance this disease has been almost entirely eradicated. It no longer exists in any section from which export steers are obtained, and it is confined to two counties on Long Island and one in New Jersey, all of which are in strict quarantine. The stock yards which might have been contaminated have been thoroughly disinfected, and there is no longer danger of exporting the contagion of this disease.

During the year 1889 a number of cases of pleuro-pneumonia were reported by the English inspectors among cattle landed from the United States, but this Department regards such reports as based upon errors of diagnosis, for the reasons given above. This conclusion is considered the more evident because the returns which have been received show that in the greater number of cases but a single animal was found affected in any one cargo, which would be unlikely with a contagious disease. It is also admitted by most veterinarians that there are seldom any typical characters found in contagious pleuro-pneumonia which enable the inspectors to distinguish it from the sporadic or noncontagious inflammation involving the same organs.

In all such cases the diagnosis must be based upon a history of contagion or upon the discovery of a number of animals in the same lot which are similarly affected, a fact which indicates contagion. In the cases reported by the English inspectors during 1889 there has neither been a history of contagion nor a sufficient proportion found affected to indicate a contagious disease. It would therefore seem highly probable that the disease observed in these steers was the result of injuries or exposure incident to the voyage.

As a preliminary measure for securing information in regard to the character of the disease found in the American cattle slaughtered in England, I would suggest that the Department of State make arrangements with the English Government by which one or more of the veterinary inspectors of this Department can be stationed at the English "foreign animals' wharves." These inspectors would observe any affected animals which might be discovered, and by promptly notifying this Department it would be possible to trace the history of such animals and determine definitely if they had ever been exposed to a contagious disease.

The thorough control which is now maintained over the small areas affected with pleuro-pneumonia in this country and the near approach of the time when this disease will be entirely eradicated make it desirable that negotiations should be begun looking to the withdrawal of the British restrictions. The time is opportune for this, since the Scotch and English farmers are agitating to secure the same result so that they can obtain cattle for feeding from the United States. Their present supply comes mostly from Ireland, where prices are much higher than here, and where the danger from pleuro-pneumonia is incomparably greater.

The restrictions on the importation of sheep into Great Britain were based upon the alleged importation of foot-and-mouth disease from this country. As this disease has never existed in the United States, except in two or three instances when cattle landed from England were found affected by it, and it has never been allowed to spread here, it is evident that the sheep in question must have contracted the disease on vessels that had previously been infected by English cattle. The restrictions are, consequently, a great injustice and should have been removed long ago. Their effect upon the trade is seen by reference to the statistics of the English agricultural department, which show that in 1879 the number of sheep imported from the United States was 119,350; and that it rapidly decreased until in 1885 it was but 1,201, though in 1889 it increased, according to statistics of the United States Treasury Department, to 18,877.

The German regulations in regard to American cattle, as communicated in your favor of December 3, 1889, prevent the development of a profitable trade with that country. The single shipment made there last year yielded good returns, but the statement that was immediately telegraphed here to the effect that further imports of American cattle had been prohibited at once arrested all efforts in that direction. While any quarantine of our cattle is an unjust requirement, a 4 weeks' detention would seem to be entirely unnecessary with cattle designed for immediate slaughter. Probably, if this matter were brought to the attention of the German Government, more favorable regulations could be obtained. At all events, the State Department could be of service to the cattle industry of this country by obtaining exact information as to the regulations which would be enforced against cattle landed for slaughter. There appears to be at present considerable uncertainty as to whether such animals are entirely prohibited, or whether they may be landed and go to any part of the Empire after 4 weeks of quarantine, or whether such quarantine must necessarily be enforced with animals that might be at once slaughtered at the port of landing.

There have also been press telegrams from Germany which stated that American dressed beef and canned meats either had been or were about to be excluded. I would suggest that you obtain reliable information in regard to this matter and take such steps as you may consider proper to protect the interest of our exporters.

The prohibition of American pork by both Germany and France is still continued, notwithstanding the demonstrated healthfulness of this article of food. This regulation was made with a view of preventing trichinosis among consumers, but it has been shown that no case of this disease was ever produced in either country by American meats; indeed, the curing process through which all exported meats must pass is a sufficient safeguard against this disease. The surplus of meat-producing animals in the United States at present is such that prices are below the cost of production,

and consequently it is extremely important that we should increase our exports of live animals and meat products if this can possibly be accomplished.

Any further information on this subject in the possession of this Department which you may desire will be promptly supplied.

Very respectfully,

J. M. RUSK,
Secretary.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 198.]

LEGATION OF THE UNITED STATES,
Paris, July 4, 1890. (Received July 16.)

SIR: Referring to your instructions to press efforts for the removal of the French prohibition of American pork, and to the memorials from various chambers of commerce which you have forwarded, as well as to my previous advices of conversations and correspondence with the foreign minister on the subject, I have the honor to report that the present condition of the new tariff bill in Congress and the French agitation about it seemed to me to make the occasion timely for fresh representations to Mr. Ribot as earnest and plain spoken as the proprieties of diplomatic intercourse would permit.

Since my return I have taken every suitable occasion to urge the subject upon the attention of the minister for foreign affairs, and, with his assent, upon various senators and deputies. Yesterday I sent Mr. Ribot the letter a copy of which is herewith inclosed. He has already told me that he should communicate its substance at once to Mr. Jules Roche, the minister of commerce, and to Mr. Meline, former president of the Chamber and now president of the commission on the budget.

I do not believe that French statesmen now think there is any real reason for continuing the prohibition of American pork, unless it be the danger of arousing prejudice and alarm among French farmers, and this I have tried to prove groundless. But they will be sure to want to trade. "If we withdraw this decree for you, what will you do for us?" is likely to be the form in which, more or less directly, the case will be presented. The present condition of the clause in the House tariff bill putting works of art on the free list suggests to us one reply. The appeal of Bordeaux fruit-growers against advances in duties on certain of their products which do not seem in any serious way to come into competition with us may offer another, and the complaints of the minister of commerce about our more stringent requirements for the legalization of invoices at the Paris consulate, particularly as to the exaction of original bills, may be thought to afford a third. In any case, I venture to think it important that the point should be considered before final action on these subjects.

I have, etc.,

WHELEW REID.

[Inclosure in No. 198.]

Mr. Reid to Mr. Ribot.

LEGATION OF THE UNITED STATES,
Paris, July 3, 1890.

SIR: Referring to previous correspondence concerning the French prohibition of American pork, and to recent conversations on the subject, I venture to remind Your Excellency that my Government is attentively waiting for the fulfillment of the hopes aroused by your unofficial conversation with and messages to Mr. Vignaud.

You will recall that, while advising you of my earnest efforts to procure the desired

removal of needless or unjust restrictions upon your trade, I pointed out once more that the greatest obstacle arose from what our people consider the persistent injustice of France in continuing the prohibition of a great staple American product on the indefensible ground that it is unwholesome. Your Excellency was good enough then to intimate that, under certain conditions, the Government might be willing to propose the repeal of this prohibition.

Such a step now would be most timely and could not fail to have a beneficial effect.

While the belief was current that this course would be speedily taken, the House of Representatives voted to remove the existing duty of 30 per cent. on pictures and statues. Seeing now that it is not taken, and beginning to believe that it will not be, the Senate committee has already amended the tariff bill by reimposing this duty, and there is danger that the Senate will approve their action. It is only candid to explain that the majority of the Senators and Representatives, including especially those from the great corn-growing and pork-producing States, regard the attitude of France as without warrant in fact and unfriendly. This old and growing feeling arises, unlike your recent complaints about our tariff bills, from no mere objection to the size of the duty you choose to impose (although within recent years you have greatly increased it) or to minor details in your custom-house method. It springs from a grievance more serious and deep-seated—your persistent discrimination in favor of the products of Germany, Italy, England, and other countries against those of your historic friend, which you absolutely prohibit on the charge of their bad quality.

We ask the repeal of this prohibition as an act of naked justice, too long deferred. It has been excused only by alleging the unhealthfulness of American pork. Now, this product is perfectly known not to be unhealthful, and we no longer hear of any serious belief in any quarter that it is. Your Academy of Medicine long since decided in its favor. Your own exposition gave it the highest award last year in competition with all the world. After that award, through a letter which I had the honor to address to your predecessor, Mr. Spuller, we challenged and invited a most rigorous examination by your scientific experts, and it was made, to their apparent satisfaction. We forwarded all the information that was then asked and have never been told that it was insufficient or that any more was desired. Certainly, it seems to us that there is no reason to seek for more. This pork is cheap and wholesome and enormously used, but nowhere so much as by our own people. They are the largest pork-consuming nation in the world, and yet, from the time the disease of trichinosis was first observed, down to this day, it is believed that there have not been in the United States so many actual deaths from it altogether as there have been in a single year from strokes of lightning. There is not an authentic case of the disease known to be recorded, except when the pork was eaten raw.

If it were a question of importation among a nation of savages, possibly here might be a valid reason for its exclusion, but not in the nation that marches at the head of the civilization of Europe.

Relations between governments are best and most enduring when they rest upon a basis of mutual good will and mutual interest. Of the mutual good will in the case of our countries there is happily no doubt; the world has seen more than a century's evidence of it. But I would like to show that the action we now ask is in the mutual interest of the two countries; that it is greatly to the benefit of France; and that it is specially in the interest of the very classes in France for which a wise government always cherishes the most solicitous care and to which a republican government is especially bound. This might seem to tend towards a questionable discussion of your domestic affairs. Relying, however, upon the courteous permission Your Excellency has given me to pursue this phase of the question, I beg you to believe that, even with this permission, I only do so in the firm belief that the facts demonstrate your interests and ours to be harmonious and not conflicting.

In the last year before the prohibition of American pork (1880) France imported in all 38,722,300 kilogrammes of pork, of which 34,247,300 kilogrammes came from the United States. As your import from all other sources has averaged for the past 3 years just about the same as it was in 1880, say, in round numbers, 4,600,000 kilogrammes per year, it is plain that you have not made up in duties on this article from other countries what you have lost in duties from the United States. That loss, at the old rate of duty, and assuming that there would have been no natural growth in the business—a most unlikely supposition—would still have been for the past 9 years of exclusion, in round numbers, 12,250,000 francs. At the present rate of duty, and assuming that the advance was not too great to check importations, even if it did prevent the natural growth of the business, your loss has been 2,911,000 francs per annum, or, for the 9 years of exclusion, in round numbers, 26,000,000 francs which we should have paid into your treasury.

But, considerable as this sum seems, it would appear to be the smallest part of your actual loss, for besides you have deprived your French steamers of a valuable line of freight; you have deprived your grocers and country peddlers throughout France of a staple and useful trade; and, above all, you have deprived your people, particularly

the poor laboring classes, of a cheap and highly prized article of food which they used largely and for which you have been able to furnish no adequate substitute. Statistics of your importations and the regular quotations of your domestic prices show that what you shut out from us you have not supplied from other sources.

Surely, an abundant and cheap supply of healthful food for the laboring classes is one of the most important essentials for the happiness of a people, the growth of its productive energies in competition with neighboring and rival countries, and the development of the national prosperity.

These, then, are some of the things the exclusion of American pork has cost France. In return what good has it done France?

Has it helped the national health? There has been no more disease from eating pork in England or Belgium, where the American product is freely used, than in France, where you deprive yourselves of it.

Has it helped the French farmer? He can sell the swine he grows for no more now than he could before the prohibition, not even for as much.

Has it helped the consumer? He can buy French pork no cheaper now than before the prohibition.

The figures on these points are most suggestive.

In June, 1880, before prohibition, and when, according to theories now advanced in some quarters, the French pork-grower suffered from the American competition, French swine sold, live weight, in Paris, at 136.61 francs per 100 kilogrammes. The same quality is currently quoted now at 114 francs per 100 kilogrammes. The average price of French swine for 1880 was from 20 to 30 per cent. higher than in 1889. In 1880 the French laborer, if he bought French salted pork at all, paid for it the retailers' varying profits over the wholesale price of from 160 to 200 francs per 100 kilogrammes for sides and hams. Now, if he buys French salted pork, he pays for the same qualities the retailers' profits over the current wholesale prices, substantially the same as in 1880, of from 160 to 200 francs per 100 kilogrammes.

The conclusion from these statements, and from the fullest comparison of facts and prices that can be made, is irresistible.

France has no greater exemption from trichinosis than England or Belgium, *i. e.*, French health has not been benefited.

French swine are lower than before prohibition, *i. e.*, French farmers have not been benefited.

The retail prices of French salt pork are no lower, *i. e.*, French consumers have not been benefited.

Who then has been? Only the small class of middlemen who are enabled to exact yet larger profits in the absence of American competition and of an adequate domestic supply at the season of scarcity, *viz.* the summer months.

But it may be thought, in spite of all this, that a return to the old order of things would now injure the French farmer. To that suggestion the current quotations of prices furnish a striking reply.

French swine, with American pork prohibited, are now selling in Paris for 86 centimes to 1.14 francs the kilogramme.

English swine, with American pork freely admitted, are now selling in London for 2s. 6d. to 4s. 2d. per 8 pounds, or 82½ centimes to 1.37½ francs the kilogramme.

Meanwhile the English working classes (and the Belgians as well), competing with you in manufacture for the world, have the advantage of a liberal and cheap supply of wholesome American meats. How great that advantage is may be inferred from the following comparative statement of the present prices, wholesale and retail, of French salt pork and the corresponding wholesale prices of American salt pork delivered in France, with an estimate of what the retail prices would now be at the same advance upon the wholesale price which the retail dealers charged in 1880. The figures include the present wholesale price of pork in America, the present rate of freight, and the present French duties and other charges. It is also to be noted that for the very cheapest kind of American salt pork, wholesaling at 75 to 78 francs per 100 kilogrammes and retailing for 90 to 95 centimes per kilogramme, there is no French equivalent in the market.

Salt pork, 1890.

	French.		American.	
	Wholesale (per 100 kilos.)	Retail (per kilo.)	Wholesale (per 100 kilos.)	Retail (per kilo.)
	<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>
Shoulders			75 to 78	.90 to .95
Sides	130 to 165	2.00 to 2.20	95 to 100	1.20 to 1.30
Hams	175 to 200	3.00 to 4.00	150 to 160	1.80 to 2.00
Barreled	130 to 145	4.00	105 to 110	

French fresh pork, retail, 1.90 to 2.10 francs per kilogramme.

It should be further noted that there is no real competition between the American salted pork and the French fresh pork. They are sold to entirely different classes, and the statistics do not show that the price of French pork has at any time been affected by the presence or absence of the American importation. French fresh pork is consumed only roasted or broiled. The American salt pork is used for boiling with vegetables, and for that purpose is highly prized by poor families, particularly the lowest paid among the working classes. These are the people who have felt the deprivation most keenly. With the same money they could formerly have meat twice as often as at present, and could have it in many places where the French salted pork, particularly in the summer, is not procurable. American pork, being dry salted, is easily carried to remote districts by traveling peddlers, and, unlike the French article, is freely retailed in groceries. The great competition among these grocers' shops insures sale at a low profit, while the magnitude of the business makes it a valuable addition to their trade.

I have ventured upon no word of complaint against your duty on pork, which in late years you have more than doubled. We fix our own duties from our own view of the public need and can not take exception to your doing the same. But, considering the large advance which you have already made, you will allow me to suggest that, in our varied experience on this subject, it has been found that lower duties often produce greater revenues than higher ones. They permit a liberal importation, which an excessive duty checks or destroys. Precisely for that reason our House of Representatives has now voted to advance certain duties to reduce an excessive revenue. In view of the facts that the production of salt pork in France does not meet the demand, and that your revenue is not excessive, it can not in this case be in your interest any more than in ours to impose a duty which would check importation from the country which has the largest supply and can furnish it at the lowest rate.

It is hoped that in any case the facts and considerations here set forth may be found sufficient to convince Your Excellency that the early withdrawal of the existing decree would be an act alike of friendliness, of duty, and of policy.

At the outset I ventured to explain that our people, from their point of view, thought the prohibition unfriendly and unjust. Will you permit me to add one more reason why it seems to them to be also, from your point of view, unwise?

You have a product, to take one example out of many, more important to France than pork is to the United States. We import it more largely than you ever imported our pork. Nobody in the United States says that our pork is diseased, but your own public men have again and again admitted the adulteration of French wines. Never in late years in the Senate of the United States has such a whisper been heard about our pork, but it is less than a month since the French Senate has been debating a bill to prevent a percentage of sulphates or of soda in French wines, which the French Academy of Medicine pronounced deleterious to health; and in the course of that debate it was openly admitted that other drugs were used, against which it was not so easy to guard.

There is a growing and already successful wine industry in the United States. Surely, it is not wise for French statesmen, by persistence in what our people think a calumination of our product, to drive American statesmen to listen to French exposures of their own and to consider whether, if France still prefers prohibition to duties, the United States has not greater reason to do the same.

But I refuse to follow that thought. Keenly as we feel the indefensible nature of your decree, we are most anxious to avoid even a suggestion of possible retaliation. That is a path not to be entered lightly or without full consideration of the mutual injuries to which it may lead.

The business of diplomacy, at any rate, is to make trade easier and national relations more cordial, not to embitter them. We prefer to present the facts and rely upon French good will, French justice, and French sagacity.

I avail, etc..

WHITELAW REID.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 201.]

LEGATION OF THE UNITED STATES,
Paris, July 11, 1890. (Received July 22.)

SIR: On Wednesday last I called upon the minister of foreign affairs during the hours for diplomatic receptions to discuss the pork question. Mr. Ribot continued, as he has done on every recent occasion

when the subject has been introduced, by saying that the agitation over the McKinley bill now makes any action on their part extremely difficult. I replied that in my belief they would find, after the two McKinley bills had been some time in operation, that their apprehensions had been unduly excited; but added:

You are not in a position, at any rate, to complain. You are the aggressors, not we. For 9 years you have persisted in an indefensible and absolute exclusion of one of our most important products. It is for you to take the first step now.

This he received with great courtesy and kindness, but made no definite reply, except to dwell again upon the alarm created by the tariff legislation.

I have, etc.,

WHITELAW REID.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 209.]

LEGATION OF THE UNITED STATES,
Paris, July 25, 1890. (Received August 4.)

SIR: On the 8th of July I was informed of a proposition said to have been submitted by the budget committee of the Chamber to the minister of finance, which appeared designed to discriminate against American lubricating oils in favor of those of Russian origin. I promised to ask the minister for foreign affairs if the Government was really considering such a proposal.

On July 9 I called on Mr. Ribot at the foreign office, and, after disposing of my other business, mentioned this complaint, saying that I only ventured to do so in the hope that he could tell me there was no occasion to trouble my Government with the matter. He said that if I gave him a memorandum of it he would mention it to his colleagues. Accordingly, I sent him the verbal note a copy of which is herewith inclosed.

I have, etc.,

WHITELAW REID.

[Inclosure in No. 209.]

Mr. Reid to Mr. Ribot.

LEGATION OF THE UNITED STATES,
Paris, July 9, 1890.

The minister of the United States presents his compliments to His Excellency the minister of foreign affairs, and, referring to their conversation this afternoon, begs to inclose herewith a memorandum of the note received by him from one of the large petroleum importing houses of his country. Mr. Reid has hoped that Mr. Ribot might be able to inform him that there was no warrant for the report therein referred to, and so relieve him of the necessity for forwarding the statement to his Government at all.

[Inclosure.]

Memorandum.

A large petroleum importing house brings to the attention of the minister of the United States a statement that the budget committee of the Chamber of Deputies has recently recommended or decided to recommend an increase of duties on mineral lubri-

cating oils from 12 francs per 100 kilogrammes, as at present, to 16 francs per 100 kilogrammes for black oils, and to 20 francs per 100 kilogrammes for pale oils, this classification being obviously calculated to discriminate in favor of Russian lubricating oils as against those of American origin.

The same house mentions apprehensions arising from other rumors to the effect that further legislation is contemplated discriminating against all American products of petroleum.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 210.]

LEGATION OF THE UNITED STATES,
Paris, July 28, 1890. (Received August 9.)

SIR: I have the honor to inclose herewith copies of a letter from Mr. Ribot, minister of foreign affairs, on the pork question and of my reply. I have, etc.,

WHITELAW REID.

[Inclosure 1 in No. 210.—Translation.]

Mr. Ribot to Mr. Reid.

PARIS, July 11, 1890.

MR. MINISTER: I hasten to acknowledge the reception of the letter you did me the honor to write me the 3d instant with reference to the rule to which American pork subjected in France.

This communication has been brought to the knowledge of the minister of the interior, who has under his direction the department of public hygiene, and also of my colleagues in the departments of commerce and agriculture. I shall take pains to inform you as early as possible of the results to which it may lead.

In the quite unofficial conversation which I had in your absence with Mr. Vignand in April last, and to which you are good enough to make allusion, I said that the French Government was quite disposed to endeavor to find conditions upon which the existing rule might be modified, but that it expected its friendly intentions would be reciprocated by the United States Government. The difficulties, of which I had given you a glimpse, have not been, I fear, attenuated by the measures which since that time, were, some of them, finally passed, others voted by the House of Representatives, and which do not fail to raise just complaints on the part of French merchants.

Please accept, etc.,

RIBOT.

[Inclosure 2 in No. 210.]

Mr. Reid to Mr. Ribot.

LEGATION OF THE UNITED STATES,
Paris, July 28, 1890.

SIR: I have the honor to acknowledge the receipt of a letter from Your Excellency, in which you are good enough to advise me that my communication of the 3d of July on the subject of the continued exclusion of American pork from France has been communicated to your colleagues, the minister of the interior, the minister of commerce, and the minister of agriculture.

Your Excellency remarks that the French Government, in its disposition to modify the existing rule as to the exclusion of American pork, counted that this evidence of good will would be reciprocated by the United States and expresses regret that the customs administrative bill already passed and the new tariff bill voted by the House of Representatives and now under consideration by the Senate have increased the difficulties in the way of such action on the admission of pork as has been desired and give just ground of complaint on the part of French merchants.

Your Excellency will pardon me for endeavoring to show that this is a view of the situation which the facts do not warrant.

The existing rule as to the exclusion of American pork has not been modified. Not a step to that end, so far as known, has been taken. What evidence of good will, then, in this regard has France given which the United States could be already expected to reciprocate?

Besides, there would appear to be no similarity or just relation of any kind between the two subjects which Your Excellency couples—the French exclusion of American pork and the two American bills, currently called the McKinley bills—nor is any reason apparent why a continuance of the one should be justified by your apprehensions as to the others.

The American bills are not yet in effect; one of them is not yet even a law, and the nature of their operation must as yet be to some extent a matter of conjecture. The French decree has been in full force for the past 9 years, and its scope and results are perfectly known.

There is every reason, from the history of such legislation in the past, to believe that if experience shows defects or injustice in the working of the American bills they will be modified. The French decree, in spite of argument and remonstrance, in spite, even, of proof that it does nobody any good, has been tenaciously maintained unchanged for 9 years.

The American bills are merely a development of a recognized American policy, understood by all the world, in practice during the greater part of our national history and continuously for the past 25 years. The French decree is entirely exceptional and not in conformity, so far as known, with any general recognized French practice.

The American bills touch all countries with absolute impartiality. The French decree singles out the United States from all other countries and prohibits its product alone, while the similar products of the rest of the world are admitted.

The American bills make no charges against the quality of the products whose importation they regulate or tax. The French decree is based upon the indefensible charge that the American product excluded is unwholesome, though this charge has been repudiated by the French Academy of Medicine itself, and though this prohibited and unwholesome product has recently been crowned by the highest prize of your own Universal Exposition.

Under these circumstances, I venture to suggest that the French Government is not in a good position to put forward in explanation of its own action anything which the United States may now do in the impartial development of its well-known policy of protection. France is and has been for 9 years past a persistent aggressor. It has absolutely prohibited the importation of an important American product on indefensible charges. It still maintains this prohibition in spite of the demonstrated facts that nothing is thereby gained, either for its own consumers or its own producers, and that the only appreciable effect is to do an injustice to a century-old friend by openly discriminating against that friend in favor of Germany, Italy, and England.

After such a record, and in advance of the slightest known movement to amend it, how can France have reason to expect, as Your Excellency indicates, that its evidence of good will should now be reciprocated by the United States? He who seeks justice should first do justice. Much more should that nation which seeks friendly consideration for its merchants refrain first from injustice to the merchants of the country appealed to and from defamation of that country's products.

It is proper, further, to call Your Excellency's attention to the fact that the chief ground on which complaint has been urged against the customs administrative bill, viz, that in cases of alleged undervaluation no appeal could be had from the decision of the custom-house to the courts, is not sustained by the terms of the bill as finally passed. Your Excellency will recall that on the first expression of a friendly complaint on this subject you were assured from Washington that the bill would be modified and the right of appeal granted. I deeply regret that that prompt response from the United States has met with no reciprocal act or recognition on the part of the French Government, and that another friendly act, the total removal of the 30 per cent. duty on works of art by the House of Representatives, passed alike unnoticed, until the Senate committee, seeing no encouragement for steps in this direction, restored the duty.

From our point of view, then, the case stands thus: The French Government has persisted for 9 years in an indefensible act, discriminating specially against United States commerce. Meantime it complains of new measures by the United States Government far less severe and in no way discriminating against French commerce. Its complaints receive prompt and considerate attention, and the friendly disposition thus shown evokes no recognition.

It can not be believed that with a full understanding of the case the French Government deliberately chooses that attitude. Your Excellency has been necessarily much preoccupied of late with other matters, but I can not believe that when you come to

give the case full attention you can be satisfied with it. Now, as heretofore, I make my appeal to French friendliness, French justice, and, may I add, to an enlightened sense of French interests.

I avail, etc.,

WHITELAW REID.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 215.]

LEGATION OF THE UNITED STATES,
Paris, August 5, 1890. (Received August 19.)

SIR: On Friday evening last I received a friendly note from the minister of foreign affairs saying that if I were free from other engagements about 4 or 5 o'clock on Saturday afternoon he would like to chat with me a little on the subject of my letter of July 28. Accordingly, I called at the time named.

After a cordial reception the minister soon introduced the subject of what he called my "full and argumentative letter." He said that, in spite of all I had urged against any necessary or just connection between their repealing their prohibitory duty on pork and the actual and prospective action of the United States on the two McKinley bills, the latter did have a very important bearing on the former in the minds of the Deputies, to whose feelings they were compelled to defer.

He then said that in his consultations with his colleagues on this subject, the minister of agriculture had dwelt upon the fact that France did not stand alone in this prohibition and had not been the first to enforce it. I pointed out here that, according to my recollection, with the exception of Italy, France had been the first, as it was certainly the most important, of the powers prohibiting American pork. Waiving this point, he went on to say that if the decree were repealed we could not object to their imposing a much heavier duty. To this I replied, renewing a suggestion heretofore presented to him in writing, to the effect that under the circumstances it would be to the common interests of both not to make the duty high enough to prevent or even to check importations; and that, since the importations obviously did not interfere with any of their industries, it would be desirable to fix the duty at a point which the experience of dealers showed that the trade could well bear, so as to give the French Government the largest possible revenue.

Mr. Ribot proceeded to speak of the very high duties imposed by other countries. The duty in Germany he thought to be 25 francs per 100 kilogrammes, and in one or two other countries nearly as high, while in France, including everything, it was only about 8 francs the 100 kilogrammes. He then referred to the proposed duty on imported pork in the United States as being far higher than that even of Germany. In reply, I stated that, according to the best information I could get, both from French and American importers, a duty in France of 25 francs the 100 kilogrammes, being more than three times the present duty, would at present be prohibitory, and that, in their belief, an advance of 50 per cent. on the present duty, say 12 francs per 100 kilogrammes, was the extreme limit which the trade would bear.

The minister said that the Government was investigating the whole subject carefully in the hope of finding a way to take some step in the direction we desired.

I have, etc.,

WHITELAW REID.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 224.]

LEGATION OF THE UNITED STATES,
Paris, August 15, 1890. (Received August 25.)

SIR: On Wednesday last the minister for foreign affairs had his first diplomatic reception since the interview reported in my No. 215 of August 5. In that interview Mr. Ribot had quoted one of his colleagues as saying that Germany had excluded American pork before France did, and I had claimed that this was a mistake. I now called on the minister, and, giving him the inclosed memorandum of dates, pointed out that while France had absolutely prohibited all American pork products since February 18, 1881, Germany had continued to admit everything, excepting sausages and sausage meat, until March 6, 1883, over 2 years later. I also pointed out that the previous action of Italy should not be considered, since that was not a special discrimination against the United States alone, like the French decree, but an impartial exclusion of all foreign pork. The minister replied, "We do then seem to have been the first." To which I rejoined, "Yes; you were the first aggressors; you set the bad example, and that is why I appeal to you to be the first to undo the wrong." He went on to say, however, that a bill had been prepared fixing the duties on pork; that this would be submitted on the first day of the next session of the Chamber (in October), and that then the Government would hope to be in position to take some action.

From remarks made in previous conversations I apprehend that these duties will be high, and that the new duty on pork proposed in the tariff bill now under consideration in the United States Senate will be quoted as an example and a justification.

I have, etc.,

WHITELAW REID.

[Inclosure in No. 224.]

Memorandum.

France absolutely prohibited the importation of American pork, February 18, 1881, being the first European nation, with the exception of Italy (February 20, 1879), to do so.

Germany had, 8 months before (June 25, 1880), prohibited the importation of sausages and prepared sausage meat, but not of hams and bacon.

Following the example of France, Austria-Hungary prohibited American pork, March 10, 1881; Turkey, June 3, 1882; Germany, March 6, 1883; Greece, April 7, 1883.

Mr. Reid to Mr. Blaine.

No. 225.]

LEGATION OF THE UNITED STATES,
Paris, August 21, 1890. (Received September 2.)

SIR: Referring to my No. 209 of July 25, concerning an unanswered inquiry directed to the minister for foreign affairs as to the alleged proposition of the budget committee to change the tariff on petroleum so as to discriminate against the American and in favor of the Russian product, I have now to report receiving, on August 14, an answer from Mr. Ribot to my inquiry of July 9.

A copy and translation of this reply are herewith inclosed.

Mr. Ribot states that only one bill to modify the existing duties on mineral oils has been lately presented, that of the budget committee, which proposes to raise the duty on crude oils from 18 francs to 21 francs and that on refined oils from 25 francs to 26 francs.

But under the treaty of 1881 with Belgium, which does not expire till January 1, 1892, these oils are admitted under a duty of 18 francs for the crude and 25 francs for the refined, and Russia, under the most-favored-nation clause in its treaty with France, is entitled to the same rates.

It follows, therefore, that under the new law proposed by the budget committee the United States would be subject to a discrimination of 3 francs on crude oils and 1 franc on refined oils until January 1, 1892, this discrimination existing not only in favor of Belgium and Russia, but also of any other nation having treaties with France containing the most-favored-nation clause.

Mr. Ribot states that France does not import crude oils from Russia, because they are not good for illuminating purposes, and thinks that the discrimination of 1 franc per 100 kilogrammes against the United States on the refined oils will not be sufficient to affect commerce.

In this, as in some other instances, the United States is subject to a peculiar disadvantage, because it does not have the most-favored-nation clause in its existing treaties with France.

I have, etc.,

WHITELAW REID.

[Inclosure in No. 225 — Translation.]

Mr. Ribot to Mr. Reid.

PARIS, August 14, 1890.

The minister for foreign affairs has the honor to acknowledge reception of the communication from the United States minister under date of the 9th ultimo. He hastens to advise him that, according to the information obtained from the minister of finances, only one bill tending to modify the conditions of importation in France of mineral oils has been introduced lately. It is the bill of the budget committee, which proposes to introduce in the law on finances for 1891 a provision raising from 18 francs to 21 francs the duty on crude petroleum and from 25 francs to 26 francs the duty on refined petroleum imported from abroad. The object of this proposition was not only to reduce to 5 francs per 100 kilogrammes the protection (bounty) given to French refiners, but also and particularly to check the fraud which consists in importing, under the name of "crude petroleum," mineral oils almost completely refined, which need only a simple distillation to be used for lighting purposes.

It is true that the rates of 18 and of 25 francs having been fixed in the conventional tariff by the treaty of October 31, 1881, between France and Belgium, Russia, which is entitled to the treatment accorded the most favored nation, will continue to have the benefit of these rates until January 1, 1892, for the importation of her mineral oils. But it does not seem likely that this preference rule can injure American production. In fact, Russia does not import in France its crude petroleum, because it is not rich in illuminating qualities, while it is crude petroleum which is particularly required from America. As for refined oils, which would pay 25 francs, when the same articles brought from the United States would pay the new duty of 26 francs, the difference of 1 franc per 100 kilogrammes is not sufficient to influence in any appreciable manner the current of importation between the two countries.

Mr. Wharton to Mr. Reid.

No. 176.]

DEPARTMENT OF STATE,

Washington, September 22, 1890.

SIR: Your dispatch No. 225 of the 21st ultimo, in relation to the proposed increase of French import duties on petroleum oils, has been read with regret.

The increase, while comparatively small, amounting to but 3 francs on crude oils and 1 franc on refined oils for each 100 kilogrammes imported, involves a positive and direct discrimination against the United States and in favor of Belgian products until January 1, 1892, in conformity with the treaty between France and Belgium which fixes the current rates of duty, and, indirectly, a like discrimination in favor of all countries having the most-favored-nation clause in their commercial treaties with France, under which they may claim the exemption accorded to Belgium. This favored-nation treatment inures, in particular, to the benefit of Russia.

This increase of duties appears to have been proposed with full knowledge of the fact that it would discriminate against the United States alone of all the petroleum-producing countries. It is sought to be palliated by Mr. Ribot's statement that it is merely a temporary discrimination, and that, after all, it will not seriously affect commerce between the United States and France, because France does not import crude oils from Russia, they being unsuitable for illuminating purposes, and because the discrimination of 1 franc for each 100 kilogrammes against the United States on refined oils is but a slight disadvantage. He leaves out of sight the fact that the crude oils furnish lubricants and other products largely used in industry, as also that the additional charge of 4 per centum of the present duty on the refined oils represents, in the close competition of freightage rates, a large proportion of the narrow margin of commercial profit. The refined oils of the United States go to their European markets under an initial disadvantage of 3,000 miles of ocean transportation as compared with the products of refineries close at hand; and, while their superior quality and low price may overcome the natural impediment of distance, a positive surtax, however small in appearance and temporary in application, is, in fact, onerous.

Experience shows that it is no easy matter to restore to its normal channels a trade which has suffered even a brief derangement. The object in view in more nearly equalizing the import duties on crude and refined oils, which, as stated by Mr. Ribot, is "to check the fraud which consists in importing, under the name of crude petroleum, mineral oils almost completely refined, which need only a simple distillation to be used for lighting purposes," is doubtless legitimate from the domestic point of view; but the statement is in itself unjust, because ignoring the remarkable purity of the natural product of many American oil wells, which, by facilitating the refining process, gives to the exported products of the United States a singular commercial value. But, however expedient the change may be deemed in protection of the domestic revenues and industry of France, it is none the less regrettable that the means adopted by way of remedy should not only strike directly and solely at the imported production of a country allied to France by so many ties of friendship and intercourse, but should in some degree be based upon an imputation of fraud on the part of our exporters. In the natural course of trade it is to be expected that the French refiners will purchase in foreign markets those crude natural oils which most readily and cheaply adapt themselves to distillation.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Vignaud to Mr. Blaine.

No. 278.]

LEGATION OF THE UNITED STATES,
Paris, December 18, 1890. (Received December 31.)

SIR: Senator Edmond de Lafayette died here on the morning of the 12th instant at the small apartment he occupied, No. 72 Rue de Rome, during the session of the Chambers. He had been ill for about 2 months, but his illness was known only to a few. Quiet and unobtrusive, he disliked to be the occasion of any trouble for those who knew him, and gave no intimation of his condition to his relatives, although he entertained with them the most affectionate relations. With perhaps two exceptions—Count d'Assailly and Mr. de Corcelle—most of them heard of his illness simultaneously with his death. He was carried away by pulmonary congestion, but for many years he has been suffering from diabetes, and this affection was the real cause of his death. The final crisis came on so suddenly that there was neither time to call for a priest nor to summon any of the members of the family to his death-bed. Only one person was present at the critical moment, and that was Joseph, his concierge, a faithful servant who had for many a day and night nursed him, and in whose arms the heir to a name illustrious in the history of two worlds expired. An American lady—the sister of a United States Senator—and a French lady, personal friends of the old gentleman, watched the first night over his body. The next day the sad news was known to all, and many people began to call at the domicile of the deceased.

Mr. de Lafayette, who was simplicity in person and who dreaded everything having an appearance of ostentation, had directed that no special invitations to attend his funeral should be issued; that no speech should be made over his grave; and that his body should be taken, in the quickest manner, to the family tomb. In compliance with this desire, but a few lines were given to the press indicating that the funeral would take place on the 15th instant at 10 o'clock at the church of St. Augustin. The Lafayette family thought, however, that an exception was to be made for the American legation, and in their name Mr. F. de Corcelle notified me of their bereavement and invited me, as the actual representative of the United States, to be one of the pallbearers. I acknowledged in suitable terms this attention and shared, with the President of the Senate, Mr. Le Royer, Mr. Challemel Lacour, and a general whose name I do not remember, the honor of accompanying the last of the Lafayettes to his resting place.

This was to be in the cemetery of Picpus, where almost every tombstone bears a name belonging to the highest nobility of France. There rest the remains of General Lafayette and those of many members of his family. But permission could not be obtained to open this cemetery, now closed, and the body was taken to Père La Chaise, where have been laid to rest the remains of the last male descendant of that illustrious family, the pedigree of which can be traced as far back as the ninth century, one who called himself plain Mr. Lafayette, who never even used the prefix of nobility attached to his name since the time of Charles VII, who never held an office, and, although learned and able in many respects, chose to lead a modest life, with no other ambition but that of being an upright man worthy of the name he bore. He had a kind heart, and, having no personal wants, he freely gave away the little he had. No one in need of assistance appealed to him in vain. He had a peculiar weakness for the Poles and supported almost by himself a Polish school in Paris; but he kept his charities to himself, and so much

so that a member of his family expressed to me his astonishment at seeing so many Poles at the funeral.

He was a true republican; a democrat, not only in theory, but also in practice, and no human consideration could induce him to compromise with the principles of his life. Twice during the Empire he declined the Washington mission. His political judgment was very sound. He never allowed himself to be affected by the Boulanger craze, and stood firmly by Mr. Jules Ferry when an extraordinary concurrence of circumstances brought down that remarkable man, the ablest, perhaps, of the living French statesmen and politicians.

Mr. Lafayette spoke English fluently and could make an extemporaneous speech in that language. He was interested in everything concerning the United States and was fond of the company of Americans. Some of his most intimate friends were Americans. He was in the habit of considering the house of every United States minister here as his own, and since I have been connected with the legation I have known him to be on intimate terms with all the representatives of our Government at Paris. Mr. Washburn had the highest consideration for him; Mr. and Mrs. Morton treated him almost as a member of their family, and Mr. McLane, who had known him 40 years ago, entertained him regularly every Sunday at his house. He was an *habitué* of Mr. Reid's hospitable house, where he had the pleasure of meeting and of conversing with a host of prominent Americans, which he enjoyed immensely.

His will was opened on Saturday. He leaves no other property but the home of the family, the "Château de Chavaniac," in the department of the Haute-Loire, where the general and himself were born. This château is an old manor, originally built in the fourteenth century, rebuilt in 1701, and restored in 1791 by General Lafayette. It is full of relics and of souvenirs concerning the general. I understand that it goes now to Mr. de Sahune, one of the two male descendants of George Washington Lafayette, son of the general.

It may not be uninteresting to make known here what the actual status of the Lafayette family is. The lineal table annexed herewith shows this at a glance. I also inclose a translation of Mr. de Corcelle's letter to me and of my reply.

In behalf of the legation I sent for the funeral a wreath, which I have charged to the contingent fund, as was done in 1881, when Mr. Oscar de Lafayette died.

I have, etc.,

HENRY VIGNAUD.

[Inclosure 1 in No. 278.—Translation.]

Mr. de Corcelle to Mr. Vignaud.

48 FAUBOURG ST. HONORÉ, December 13, 1890.

MR. CHARGÉ D'AFFAIRES: Although Mr. Lafayette requested in his last will that no invitations be issued for his funeral, his family believes it would fail to do its duty if it did not advise the representative of the United States of the date of this ceremony. I have the honor, in the name of Mr. Lafayette's nephews, to inform you of their loss and to state that if you will call at No 72 Rue de Rome next Monday, at quarter before 10, one of the places of pallbearer will be reserved for you.

Accept, etc.,

F. CORCELLE.

[Inclosure 2 in No. 278.]

*Mr. Vignaud to Mr. de Corcelle.*LEGATION OF THE UNITED STATES,
Paris, December 14, 1890.

SIR: I have the honor to acknowledge reception of the letter you were good enough to write me in the name of your family to inform the representative of the United States of the death of Mr. Edmond de Lafayette, and to say that in that capacity I was expected to be one of the pallbearers.

I thank your family and yourself for having thought that the representative of a country which is the second home of the Lafayettes should occupy a place near the hearse at the funeral of the last one bearing that name, and I beg you to express to your relatives the feelings of sorrow which your bereavement has caused to every American.

Having received personally many marks of affection from him who has just departed, I feel deeply the loss you have incurred, and it will not be without emotion that I shall attend to the honorable duty assigned to me.

Please accept, etc.,

HENRY VIGNAUD,
Chargé d'Affaires, etc.

[Inclosure 3 in No. 278.]

Family Table.

General Lafayette, married April 11, 1777, to Adrienne d'Ayen de Noailles and had by that marriage three children, viz:

- | | | |
|---|--|---|
| 1. Anastase de Lafayette, born in 1778, married May 9, 1798, to Count of Latour Maubourg (two daughters). | Mme. de Brigode.
Mme. de Perroux St. Marais. | |
| 2. George Washington de Lafayette, born December 24, 1779, died in 1849; married Miss de Tracy (five children). | Oscar de Lafayette. . . .
Edmond de Lafayette. . . .
Mme. Gustave de Beaumont.
Mme. Bureau de Pusy. . . .
Mme. Adolphe Perier. . . . | No children.
No children.
Ct. Antoine de Beaumont.
Paul de Beaumont (dead).
Two children.
One of her daughters married M. de Sahnne. |
| 3. Marie Antoinette Virginie de Lafayette, born September, 1782; died in 1849; married April 20, 1803, Marquis Louis de Lasteyrie du Sallant, who died in 1826 (four children). | Mme. de Rémusat. . . .
Mme. de Corcelle. . . .
Mme d'Assailly.
Mr. de Lasteyrie (Adrien Jules), born October 10, 1810. | One of her children was Senator Paul de Rémusat, who died a few years ago.
One of her children is Mr. F. de Corcelle; another is Mme. de Chambrun.
Count d'Assailly.
Mr. de Lasteyrie. |

GERMANY.

Mr. Blaine to Mr. Phelps.

No. 21.]

DEPARTMENT OF STATE,
Washington, November 27, 1889.

SIR: I have to acknowledge the receipt of your dispatch No. 12 of the 4th ultimo, transmitting passport returns for the quarter ending September 30, 1889.

In this relation, it is proper, as a matter of precaution, to call attention, among the large number of applications transmitted, to a few in which the statements in regard to citizenship are thought to be defective.

The first of these is No. 2169, in which the applicant, Otto King Friedrich, born in Hongkong, China, in 1873, is said to have been brought to the United States by his father in the following year, 1874. He claims citizenship through a declaration of intention made by his father, who died in San Francisco in 1877, before completing his naturalization. Section 2168 of the Revised Statutes provides that when any alien who has made a declaration of intention dies before he is actually naturalized the widow and children of such alien shall be considered as citizens of the United States and shall be entitled to all rights and privileges as such upon taking the oath prescribed by law. The object of this section is to place the widow and children of such an alien in the same position in respect to citizenship as the alien himself occupied at the time of his death. It does not appear that the applicant in the present case has ever complied with the provisions of the section in question.

In case No. 2198 it appears that Aaron Frank was born at Shreveport, La., in 1863, of a father who emigrated to the United States in 1854 and was naturalized in the district court of Caddo Parish, at Shreveport, on the 25th of April, 1859. In July, 1868, almost immediately after the settlement of the naturalization question as between the United States and the North Germany Union, the applicant, who was then 5 years of age, was taken abroad by his father to Germany, where he has since resided; whether the father is still alive does not appear, and it is not stated that after his departure from the United States in 1868 he ever returned.

The circumstances render the case one of doubtful character. The applicant discloses no tangible intention of ever returning to the United States, in which he resided only during the first 5 years of his infancy.

In case No. 2219 the applicant, Charles Maddern, was born in Alsace on the 3d of November, 1855. He emigrated to the United States in 1872. In 1878 he was naturalized before the probate court at Cleveland, Ohio, and 2 months subsequently in the same year obtained a passport and went abroad. His occupation is stated to be that of a tin-smith. Since 1880 he has continuously resided at Strasburg, his native place, where he has married and had a child born to him. The facts in this case seem to negative any intention ever to return to the United States.

In case No. 2223 the applicant, Isaac Gutmann, was born in Germany in 1832 and came to the United States in 1850. He was naturalized before the criminal court at St. Louis, Mo., on November 3, 1856. On the 9th of October, 1871, he obtained a passport and went back to Germany, where he has since resided continuously. He now obtains a passport for himself and wife and four children, whose ages range from 2 to 18 years. Obviously, all of these, with the possible exception of the eldest, were born in Germany. The facts now before the Department appear to indicate that the claim of American citizenship in this case grows solely out of the desire on the part of the applicant to escape, with his children, the duties of citizenship in Germany.

In case No. 2245 the applicant, William Gottlieb Henry Taaks, swears that he was born in Brooklyn in 1861 of a father who was naturalized as a citizen of the United States before the court of common pleas of the city and county of New York on the 16th of August, 1855. The applicant left the United States in 1872, when 12 years of age, and has since resided out of this country. He is now 25 years of age and has manifested no intention whatever to return to the United States to perform the duties of citizenship.

In case No. 2270 the applicant, Thomas Killilea, claims citizenship by naturalization, but fails to produce any certificate. The mere statement of an applicant that he has been naturalized is insufficient to warrant the issuance of a passport.

In case No. 2276 the applicant, Friedrich Neumann, fails to make any statement in regard to his intention to return to the United States, which is in all cases necessary.

In case No. 2281 the applicant, Charles Reeb, swears that he was born at Strasburg in 1854 and emigrated to the United States in 1872, when 18 years of age, and therefore about subject to military duty. He resided in the United States until 1879, during which time he was naturalized. He then went back to Strasburg and has resided there since September 30, 1879. The circumstances indicate that he is residing there permanently and has no bona fide intention ever to return to the United States. His occupation is that of a druggist.

In case No. 2310 the applicant, Rudolph Gritzner, was born in Paris in 1849. His father emigrated to the United States in 1850, was naturalized in 1858, and was appointed United States consul at Oldenburg in 1862. The applicant returned to Europe in 1859, when 10 years of age, and has remained there ever since. He is now over 40 years of age, and no reason is suggested for his long residence abroad other than that indicated by the circumstances detailed, viz, a mere preference for foreign residence.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Phelps.

No. 23.]

DEPARTMENT OF STATE,
Washington, December 3, 1889.

SIR: I inclose a copy of a letter from the Secretary of Agriculture, dated the 22d ultimo, in relation to a recent press dispatch from Berlin concerning the German law in regard to the importation of American cattle and hog products.

The consul at Hamburg, with his dispatch No. 18 of the 6th ultimo, sends hither a copy of the Hamburg quarantine law of 1879, copy of which I also inclose, and states that this law, while issued by the Hamburg senate, is identical in all the states and provinces of Germany.

If there is any other law bearing upon the subject, you will please procure a few copies for the information of the Department and the Secretary of Agriculture.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 23.]

Mr. Rusk to Mr. Blaine.

DEPARTMENT OF AGRICULTURE,
Washington, November 22, 1889.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant inclosing a copy of a report from the American consul at Cologne, Germany, upon a shipment of beef cattle that was recently sent from the United States to that country. In this connection, I would state that the following dispatch has recently appeared in the newspapers of this country:

“BERLIN, November 20.

“In the Reichstag the motion to rescind the law prohibiting the importation of cattle was rejected, as was also a motion permitting free importation of swine shipped directly to slaughterhouses.”

I would respectfully request information as to whether there is such a law in force in Germany, as indicated in the above dispatch, which prohibits the importation of cattle from the United States.

Thanking you for the information contained in the report,

I am, etc.,

J. M. RUSK,
Secretary.

[Inclosure 2 in No. 23.—Translation.]

Proclamation regarding the importation of cattle from Great Britain and America.

No. 55.]

AUGUST 1, 1879.

For the prevention of the introduction of murrain, it is hereby ordered that, until further notice, cattle arriving in the Hamburg state from Great Britain, North or South America, either by water or by land, shall, before being landed, be reported to the respective police authorities and then be quartered, at the expense of the parties interested, in a space prescribed by these authorities and isolated from intercourse with inland cattle. In the same the cattle will be subjected to 4 weeks' veterinary observation and will not be admitted to free intercourse until the appointed veterinary surgeon has, after the lapse of this period, declared it to be free of contagious diseases.

Violations of this law will be punished with fines not exceeding 30 marks (\$7.14), provided the severer penalties prescribed in section 328 of the penal code have not been incurred.

Given in the meeting of the Senate, Hamburg, August 1, 1879.

Mr. Phelps to Mr. Blaine.

No. 46.]

LEGATION OF THE UNITED STATES,
Berlin, December 17, 1889. (Received January 6, 1890.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 21 of the 27th ultimo. It discusses the issue by this legation of

certain passports during the quarter ended September 30, 1889. Although these passports were issued before I took charge of this legation, I have read the criticisms with no less interest, in the desire to possess myself of a more complete knowledge of the wishes of the Department in this matter.

In a few of the cases cited I fail to see clearly the points made in the instruction and beg to refer more particularly to them.

Case No. 2198.—The passport was issued to Aaron Frank, with the warning (see Department instruction No. 408 of January 29, 1889) that a new passport would not be issued to him if he continued to reside in Germany after the expiration of the validity of the one sent.

Case No. 2219.—As regards the intention of Charles Mattern to return to the United States, the legation was guided by his oath that it was his intention to return thither in 9 months.

Case No. 2276.—In this case it is claimed that Friedrich Neumann "fails to make any statement in regard to his intention to return to the United States," whereas he makes oath that it is his intention to return thither, though he does fail to fix any date. It will also be seen that he last left the United States as late as July 20, 1889.

Case No. 2281.—Charles Reeb swears that it is his intention to return to the United States in 7 months. The legation accepted this statement under oath as indicating his bona fide intention.

It is not clearly stated, but seems to be properly drawn from these instructions, that the Department wishes us to insist that the applicant for a passport shall give a limit to the period of his absence from the United States; shall, in other words, state when the purposes to return home. Is the legation to understand that it is to refuse this evidence of citizenship to one who convinces it that he has a bona fide intention to return, but who can not, under the circumstances, fix the date of his return?

I am, etc.,

WM. WALTER PHELPS.

Mr. Blaine to Mr. Phelps.

No. 50.]

DEPARTMENT OF STATE,
Washington, January 10, 1890.

SIR: I have to acknowledge the receipt of your dispatch No. 46 of the 17th ultimo, in regard to passports issued by your legation, and to inform you, in reply to your inquiry touching the clause in passport applications requiring a declaration of intention on the part of applicants to return to the United States, that it is not the purpose of the Department to require in all cases a certain statement as to the time at which an applicant for a passport intends to return to the United States. Various cases are conceivable in which it would be impossible to make such a statement in good faith, but in which the residence abroad would be entirely compatible with the retention of allegiance to the United States. The important object is, so far as possible, to ascertain the actual intention of the applicant, and for this purpose the statement made by him on the subject of return is not the only—and often not the most satisfactory—source of information; it is not difficult to conceive of cases the circumstances of which would clearly forbid the extension of protection to an applicant, although his declarations of allegiance and of intention to perform the duties of citizenship were strong and un-

qualified. His whole previous course of conduct might conclusively negative such a pretension. On the other hand, the good faith of the applicant and his right to protection might be clear, notwithstanding that he was unable to say that he would return to the United States at a certain day. But, where no such statement is made, the reasons for the omission should appear. The omission is one that requires explanation, and under some circumstances the excuse would have to be established by stronger evidence than under others. For example, a youth approaching the age when he will be liable to perform military service leaves his native country and comes to the United States and is naturalized. Immediately after his naturalization he returns to the country of his origin, and when asked to declare his intention in respect to return to the country of his adoption is unable to make any definite statement. Such a case would, upon its face, require evidence of good faith of a very cogent character.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Phelps.

No. 57.]

DEPARTMENT OF STATE,
Washington, February 1, 1890.

SIR: I have to acknowledge the receipt of your No. 49 of the 6th ultimo, with which you transmit passport returns for the quarter ending December 31, 1889. The Department appreciates the care they exhibit in the consideration of the various cases which have been acted upon.

The only case upon which it seems requisite to comment is that of Mrs. Emilie Heisinger and her minor son Carl, which is set forth in application No. 140. Mrs. Heisinger was born in Altona, Prussia. Her husband was also an alien by birth and came to the United States in May, 1866. He was naturalized August 18, 1871, and died probably not later than 1879. The son Carl was born in Philadelphia, in the State of Pennsylvania, January 21, 1871, more than 6 months before the naturalization of his father. In 1879 Mrs. Heisinger returned to Germany, taking her son with her, and has ever since resided in that country.

The facts raise two questions, one as to the status of the mother, the other as to the status of the son. Section 1994 of the Revised Statutes of the United States, which incorporates the second section of the act of February 10, 1855 (10 Stats. at Large, 604), provides as follows:

Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

The scope of this enactment was considered by the Supreme Court of the United States in the case of *Kelly v. Owen* (7 Wallace, 496):

The terms [said the court] "married," or "who shall be married," do not refer, in our judgment, to the time when the ceremony of marriage is celebrated, but to a state of marriage. They mean that whenever a woman, who under previous acts might be naturalized, is in a state of marriage to a citizen, whether his citizenship existed at the passage of the act or subsequently, or before or after the marriage, she becomes by that fact a citizen also. His citizenship, whenever it exists, confers, under the act, citizenship upon her.

It follows from this decision that the naturalization of Mr. Heisinger as a citizen of the United States, whether before or after his marriage, conferred American citizenship upon his wife, she being, as is to be

inferred from the facts stated, capable of naturalization as a citizen of the United States. The only circumstance, therefore, which raises a doubt as to her present American citizenship is her return, after the death of her husband, to her native country and her apparently permanent residence there. The view has been taken by this Department in several cases that the marriage of an American woman to a foreigner does not completely divest her of her original nationality. Her American citizenship is held for most purposes to be in abeyance during coverture, but to be susceptible of revival by her return to the jurisdiction and allegiance of the United States.

The Department would be glad to learn what the general rule is in Germany on this subject. Aside, however, from the legal effects of marriage upon the citizenship of a woman, there is also to be considered in the case of Mrs. Heisinger the question of the renunciation of adoptive allegiance under the treaty.

In the case of Carl Heisinger still another question is raised, in addition to that suggested in the case of his mother. Section 2172 of the Revised Statutes of the United States provides that—

The children of persons who have been duly naturalized under any law of the United States * * * being under the age of 21 years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof.

Carl Heisinger appears to come within the provisions of this statute. He was born before the naturalization of his father, and was less than a year old at the time of such naturalization, and he is not now dwelling in the United States. In this relation, section 2172 of the Revised Statutes contains another pertinent provision, which is as follows:

And the children of persons who are now, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof.

It is a reasonable interpretation that the words "if dwelling in the United States" were intended, among other things, to meet the case of conflicting claims of allegiance. In this relation it is pertinent to disclose the origin of those words. On March 26, 1790, an act was approved entitled, "An act to establish an uniform rule of naturalization" (Stats. at Large, 103). This was the first law enacted by Congress on that subject. The first clauses prescribed the conditions and methods of naturalization. Then followed these words:

And the children of such persons so naturalized, dwelling within the United States being under the age of 21 years at the time of such naturalization, shall also be considered as citizens of the United States.

In 1795 the law of 1790 was repealed by an act of the 29th of January of the former year entitled, "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject" (1 Stats. at Large, 414). By the third section of the act of January 29, 1795, it was provided that—

The children of persons duly naturalized, dwelling within the United States and being under the age of 21 years at the time of such naturalization, and the children of citizens of the United States born out of the limits and jurisdiction of the United States, shall be considered as citizens of the United States.

The law on this subject so remained until 1802, on the 14th of April, of which year, an act was approved entitled, "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject" (2 Stats. at Large, 153).

The fourth section of this act provides that—

The children of persons duly naturalized under any of the laws of the United States, * * * being under the age of 21 years at the time of their parents being so naturalized * * * shall, if dwelling in the United States, be considered as citizens of the United States, and the children of persons who are now or have been citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered citizens of the United States.

It will be observed that in this provision, which is incorporated in section 2172 of the Revised Statutes, the words "if dwelling in the United States" are transposed. The effect of this transposition was considered by the Supreme Court of the United States in the case of *Campbell v. Gordon* (6 Cranch, 176) in 1810. The case involved a title to land, which depended upon the citizenship of one Yanetta Gordon, *née* Currie, who was by birth a British subject. Her father, also a natural-born British subject, emigrated to the United States and in 1795 was naturalized. His daughter Yanetta was then residing in Scotland, where she remained until 1797, in which year she came to the United States. It was contended by counsel that she was not a citizen of the United States, inasmuch as she was not dwelling in the United States at the time of her father's naturalization. The Supreme Court took a different view of the matter. Mr. Justice Washington, delivering the opinion of the court, said:

The next question to be decided is whether the naturalization of William Currie conferred upon his daughter the rights of a citizen after her coming to and residing within the United States, she having been a resident in a foreign country at the time when her father was naturalized. Whatever difficulty might exist as to the construction of the third section of the act of January 29, 1795, in relation to this point, it is conceived that the rights of citizenship were clearly conferred upon the female appellee by the fourth section of the act of April 14, 1802. This act declares that the children of persons duly naturalized under any of the laws of the United States, being under the age of 21 years at the time of their parents being so naturalized, shall, if dwelling in the United States, be considered as citizens of the United States. This is precisely the case of Mrs. Gordon.

The effect of the law, as thus expounded, is to make actual residence in the United States, and not residence at the time of naturalization, the test of the claim to citizenship; and here, as explanatory of this rule, it is important to observe the associated provision, found in all the acts above quoted, and incorporated in the same relation in section 2172 of the Revised Statutes, that children born of citizens of the United States shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof. Under this provision, such children are treated as citizens of the United States, whether dwelling in this country or not, being regarded as citizens of the United States by birth. The preceding provision relates to children born of parents who were not at the time citizens of the United States, and upon whom the country of the parents, under the same rule of law as that announced by this Government, might have claims of allegiance. In respect to such persons, the words "if dwelling in the United States" recognize a possible conflict of allegiance. They also recognize another principle, and that is that it is not within the power of a parent to eradicate the original nationality of his child, though he may, during the minority of such child, invest him with rights or subject him to duties which may or may not be claimed or performed. For this reason, also, it is provided that children not born citizens of the United States are, by virtue of the naturalization of their parents, to be considered as citizens of the United States "if dwelling" therein.

The Department does not desire to be understood to assert that nat-

ural-born subjects of a foreign power whose parents have been naturalized in the United States must at every moment be dwelling in the United States in order to claim its citizenship. That question does not arise in the present case. The words "if dwelling in the United States," whether meaning residence at a particular moment or contemplating a settled abode, apply to Carl Heisinger, who, being now 19 years of age, has for about 11 years been dwelling in Germany. It is not known that the Government of that country has made any claims upon him. But, if the German Government should, under a provision of law similar to that in force in the United States in relation to the foreign-born children of citizens, seek to exact from him the performance of obligations as a natural-born subject, the Department would be bound to consider the provisions of section 2172 of the Revised Statutes.

I am, etc.,

JAMES G. BLAINE.

Mr. Phelps to Mr. Blaine.

No. 73.]

LEGATION OF THE UNITED STATES,
Berlin, February 15, 1890. (Received March 3.)

SIR: I have the honor to transmit herewith for the files of the Department authentic copies from the official gazette, with translations of the recent decrees relating to the improvement of the condition of the laboring classes, addressed by the German Emperor, in his imperial capacity, to the chancellor of the Empire, and, in his capacity of King of Prussia, to the Prussian ministers for public works, and commerce and industry. I also transmit a copy, with translation, of the Emperor's address to his State council, which, in response to his summons, met yesterday to discuss and determine upon the measures to be adopted to reach the results aimed at in the royal rescripts.

The inclosed documents, in view of the high purpose which prompted them, in view of the conference with other great powers suggested, and of the possible legislation foreshadowed in them, have been so thoroughly discussed by the press from every standpoint that I can add nothing new or of value to the Department.

I ought, however, to say that in this country at least they, or rather the disposition towards the interests of labor manifested in them, receive in all classes approval and admiration.

I have, etc.,

WM. WALTER PHELPS.

[Inclosure 1 in No. 73. — Translation.]

Emperor William to the imperial chancellor.

I am resolved to lend my hand to the task of improving the condition of the German working classes so far as those limits permit, which are set to my benevolent interest, by the necessity of maintaining German industry in a state capable of competing in the markets of the world, and of thus rendering its own existence and that of the workmen secure. The decline of home trade, through the loss of its market abroad, would take away the bread, not only from the masters, but also from their workmen. The difficulties in the way of the improvement of the situation of our work people, which have their root in international competition, can only be modified, if not overcome, by international understanding with the countries which share

the command of the world's market. In the conviction that other governments are also inspired with the desire to submit to common investigation those endeavors to better their condition, regarding which the work people of these countries already conduct international negotiations with each other, I desire that in the meantime, in France, England, Belgium, and Switzerland, official inquiries should be made by my representatives. Then, if the governments are inclined to enter upon negotiations with us, with the object of an international understanding regarding the possibility of meeting those necessities and wishes of the work people, which have been revealed by the strikes of recent years and otherwise, so soon as an agreement with my invitation has been obtained in principle, I charge you to invite the cabinets of all governments which cherish a similar interest in the working class question to a conference for the consideration of the questions involved.

WILLIAM, I. R.

[Inclosure 2 in No. 73.—Translation.]

Emperor William to the ministers of commerce and industry, and of public works.

At my accession I declared my resolve to promote the further development of our legislation in the direction in which my late grandfather undertook, in the spirit of Christian morality, the care of that portion of the people which is the weaker on the economical side. Valuable and successful as are the legislative measures already taken for the improvement of the condition of the working class, they do not accomplish the whole task before me. Along with the further development of the workers' insurance legislation, the existing regulations of the industrial code regarding the relations of factory operatives must be submitted to examination, in order to satisfy the complaints and desires which have found a loud voice in this sphere so far as they are well grounded. This investigation must start from the principle that it is the duty of the civil power to regulate the nature and duration of labor, so that the preservation of health, the demands of morality, the financial needs of the workers, and their claim to equality in the eyes of law may be maintained. For the promotion of peace between the employers and employed, legislative provisions must be contemplated, according to which the work people may, through representatives possessing their confidence, share in the regulation of common affairs and be qualified to look after their own interests in negotiations with their employers and with the organs of my Government. By such an arrangement the work people must be enabled to enjoy the free and peaceful expression of their wishes and grievances and to give the civil authorities the opportunity of constantly informing themselves respecting the condition of the work people and of maintaining touch with them. I desire to see the State mines, as regards care for the workers' interests, developed into model institutions; and for private mining industry I aim at the restoration of an organic relation between my inspectors of mines and the industry, with the object of obtaining a surveillance corresponding to the position of factory inspection as it existed up to 1865.

For the preliminary consideration of these questions I desire that the Staatsrath should assemble, under my presidency, and with the participation of such specialists as I shall summon. The choice of the latter I reserve for my own decision.

Among the difficulties which stand in the way of the arrangement of the relations of workers in the sense intended by me, those which arise from the necessity of not injuring home industry in its competition with other lands occupy a foremost place. I have therefore instructed the imperial chancellor to propose to the governments of those states whose industry commands with ours the markets of the world the assembly of a conference to attempt to achieve some equal international regulation of the limits of the demands which may be made upon the activity of workers. The chancellor will communicate to you a copy of the decree issued to him by me.

WILLIAM, R.

[Inclosure 3 in No. 73.—Translation.]

Emperor William to the council of state.

GENTLEMEN OF THE COUNCIL OF STATE: By my decree of the 4th instant you were informed that it is my desire to hear the views of the council of state regarding those measures which are necessary for the better regulation of the condition of the working classes. The important position which the council of state occupies in the Monarchy requires that the weighty questions to be solved in this connection should be submitted to it for thorough consideration before the bills to be drafted on the subject are laid before the parliamentary bodies, with whom rests, in virtue of

the constitution, the final decision in the matter. I regard it as important that the council, composed as it is of members belonging to the most varied callings, in virtue of the practical experience represented by its members, should conscientiously and impartially examine my proposals and decide as to their expediency, practicability, and scope. The task for the accomplishment of which I have called you together is a serious and responsible one. The protection to be accorded to the working classes against an arbitrary and limitless exploitation of their capacity to work; the extent of the employment of children, which should be restricted from regard for the dictates of humanity and the laws of natural development; the consideration of the position of women in the household of workmen, so important for domestic life from the point of view of morality and thrift; and other matters affecting the working classes connected therewith, are susceptible of a better regulation. In the consideration of these questions it will be necessary to examine, with circumspection and the aid of practical knowledge, to what point German industry will be able to bear the additional burden imposed upon the cost of production by the stricter regulations in favor of the workmen, without the remunerative employment of the latter being prejudiced by competition in the world's market. This, instead of bringing about the improvement desired by me, would lead to a deterioration of the economic position of the workman. To avert this danger, a great measure of wise reflection is needed, because the satisfactory settlement of these all-absorbing questions of our time is all the more important since such a settlement and the international understanding proposed by me on these matters must clearly react one upon the other.

No less important for assuring peaceful relations between masters and men are the forms in which the workmen are to be offered the guaranty that, through representatives enjoying their confidence, they shall be able to take part in the regulation of their common work, and thus be put in a position to protect their interests by negotiation with their employers. The endeavor has to be made to place the representatives of the men in communication with the mining officials and superintendents of the State, and by that means to create forms and arrangements which will enable the men to give free and peaceful expression to their wishes and interests, and will give the State authorities the opportunity of making themselves thoroughly informed of the circumstances of the workmen by continually hearing the opinions of those immediately concerned and of keeping in touch with them. Then, too, the further development of the State-directed industries in the direction of making them pattern examples of effective solicitude for the workmen demands the closest technical study. I rely upon the tried loyalty and devotion of the State council in the labors which now lie before it. I do not lose sight of the fact that all the desired improvements in this domain can not be attained by State measures alone. The labors of love, of church, and school have also a wide field for fruitful action by which the ordinances of the law must be supported and aided; but if, with God's help, you succeed in satisfying the just interests of the laboring population by the proposals you make, your work may be sure of my kindly thanks and of the gratitude of the nation.

The bills which are to be submitted for your consideration will be laid before you without delay. I appoint to take part in the deliberations the two sections of the council for commerce and trade, public works, railways, and mines, and for affairs of internal administration, and I will attach to them a number of experts. I request the members of those departments to assemble in the place to be indicated to you on the 26th instant at 11 in the morning. As reporter I appoint Chief Burgomaster von Mignel, and as assistant reporter, Privy Counsellor Jencke. I reserve to myself the power, after the conclusion of the sectional discussions, to order the council of state to reassemble; and I wish you in your work the blessings from on high, without which human acts can never prosper.

Mr. Phelps to Mr. Blaine.

No 79.]

LEGATION OF THE UNITED STATES,
Berlin, March 1, 1890. (Received March 17.)

SIR: It occurred to me that it might be useful to have in the files of the Department which preserve the papers connected with Samoa, on a single sheet and in print, the extracts from the three great organs of German political sentiment and thought which I have already forwarded separately. They indicate the absolute unanimity—so far as newspapers reflect it—of German public sentiment with reference to the Samoan treaty. I take the liberty of inclosing some twenty copies of these extracts in print.

I have, etc.,

WM. WALTER PHELPS.

[Inclosure in No. 79.]

German newspaper comments on the Samoan treaty.

The German papers do not seem to be very much satisfied with the Samoan treaty. They think the United States got much the best of it. The following extracts from the leading papers in each of the three great parties which divide German political sentiment illustrate the unanimity of German criticism on the Samoan treaty.

[From the *Berlin Kreuz Zeitung*. (Extremely conservative.)]

German influence is not to be allowed predominating force, and in every particular the German element is to be reduced to the level of other foreign elements, although two-thirds of all foreigners in Samoa are Germans.

Four-fifths of the entire trade, foreign and domestic, is in German hands. For these reasons, Germany in 1887, when a conference was first spoken of, naturally proposed that the control and final decision in disputes should be conferred upon it.

The Cabinet at Washington, however, refused this proposition, and now the conference, resumed 2 years later, has gone so far as to determine that Germany has no paramount claims, notwithstanding its great interests there.

[From the *Berlin Vossische Zeitung*. (Moderate.)]

Although the Germans have by far the largest part of the trade in their hands, they are to have no more rights than the little band of Americans on the islands.

Certainly, it is wisest to look at the fact that, from the pleasantest point of view, it is a retreat and to console ourselves with the thought that it might have been worse.

From the standpoint of German interests, the contents of the Samoan treaty certainly afford no ground for particular satisfaction. The circumstance alone that in Samoa the Germans are denied that influence which they claimed in virtue of their superior possessions and numbers must be regarded as unfortunate.

It is another of those blows in the face of which a liberal deputy gave notice when our present colonial policy was inaugurated, and of which we have had more than enough since.

[From the *Frankfurter Zeitung*. (Radical.)]

It is strange that even in America, which has achieved in the Samoan treaty all it could desire, certain papers are now expressing other than perfect satisfaction with it. As a fact, these are only papers which disapprove the government of President Harrison and of his Secretary of State, Mr. Blaine, on principle. One of those papers writes: "The suspicion has existed some time that in the division of Samoan spoils between Bismarck and Blaine the former got the oyster, the latter the shell. This expectation becomes conviction when the text of the Samoan treaty is read." We have sought in vain in American papers for any grounds for these queer utterances, whose only purpose can be a cheap criticism of the Administration. Such international questions are judged, on the whole, more impartially in Germany than in America.

Mr. Blaine to Mr. Phelps.

No. 72.]

DEPARTMENT OF STATE,
Washington, March 4, 1890.

SIR: I inclose for your information a copy of a letter* from the Secretary of Agriculture of the 18th ultimo, touching the restrictions imposed against the introduction of live animals and hog products from the United States by certain European governments, including the action of Germany upon this important industry.

The regulations of the German Government have proved a serious obstacle to the development of a profitable trade with that country,

* For inclosure see inclosure to instruction No. 114, of March 4, to the United States minister to France, page 281.

and our affected interests demand that these measures, which are clearly unjust in view of the repeatedly demonstrated healthfulness of this article of food, should be removed or materially modified.

Especially is the quarantine regulations of 4 weeks against American cattle considered as unnecessary, as it is without warrant in fact, and it is hoped that upon proper representation the German Government may be disposed to change this prohibitory injunction, particularly in regard to the landing of cattle for immediate slaughter.

"There appears to be at present," observes the Secretary of Agriculture, "considerable uncertainty as to whether such animals are entirely prohibited, or whether they may be landed and go to any part of the Empire after 4 weeks of quarantine, or whether such quarantine must necessarily be enforced with animals that might be at once slaughtered at the port of landing."

Definite information upon this subject is desired; also in reference to the recent press telegrams from Germany that American pressed beef and canned meats either had been or were about to be excluded.

Awaiting the fullest possible data upon the subject of the letter of the Secretary of Agriculture,

I am, etc.,

JAMES G. BLAINE.

Mr. Phelps to Mr. Blaine.

[Extract.]

No. 88.]

LEGATION OF THE UNITED STATES,

Berlin, March 25, 1890. (Received April 5.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 72 of the 4th instant. It covers, as an inclosure, the copy of a letter from the Secretary of Agriculture, dated February 18 last, and addressed to the Department of State, speaking of some restrictions imposed upon the introduction of live animals and hog products from the United States into certain European states, and especially referring to the action of Germany in this matter. I was already in possession of an earlier instruction relating to the same subject (your No. 23 of December 3, 1889). This instruction covered copies of a communication, dated November 22 last, from the Secretary of Agriculture to the State Department, and of an ordinance (assumed to be identical with others issued by all the seaboard states of Germany) adopted by the senate of Hamburg and originally transmitted to the Department by our consul at that port. This ordinance decrees certain measures for the prevention of the introduction of murrain in cattle arriving from foreign countries, among them the United States. I was directed to ascertain if there were any other laws of similar purport, and, if there were, to forward copies of them.

To the request which in pursuance of these instructions I addressed to the foreign office for copies of such laws as were still in force in the German Empire regulating the importation of cattle, swine, and swine products of American origin, I have as yet received no answer. I have, however, caused searches to be made through our own resources. The search was rewarded by the discovery of no other legislation than the imperial ordinance prohibiting the importation of American pork products, which was first published March 6, 1883. A draft of this ordinance was transmitted to the Department with Mr. Sargent's dis-

patch No. 85 of December 11, 1882. In subsequent correspondence between Mr. Sargent and the Department and Mr. Sargent and the foreign office this measure was discussed at great length.

Upon receipt of your instructions to ascertain what construction of the Hamburg ordinance the German authorities were adopting, I determined to make an effort to obtain the information in an informal way through our consul at Hamburg. I thought that our consul there, at the greatest port of entry, could report to me the practice of the Hamburg authorities in the case of such importations, and that that practice would furnish the desired information as to the construction of the ordinance by which such imports were to be regulated.

My success has not been very great. Consul Johnson's discoveries are incomplete and unsatisfactory. This is probably because such cargoes are infrequent, and, when they do come, the method of disposing of them is irregular. He speaks of a cargo of 934 head of cattle arriving in 1889. In this case four or five of the cattle in each shipment were slaughtered on the spot to show there was no taint in the shipment, and then all the rest were allowed to enter, after a detention in some cases of 10, in other cases of 21 days. It is so plain that the practice of the authorities is not uniform that I felt compelled to resort to a formal demand for information on this subject to the foreign office. I inclose herewith a copy of the note I accordingly addressed to that office on the 21st instant.

Mr. Johnson's investigations convinced him that the ordinance was originally issued by the seaboard states at the instance of the Imperial Government, and that these states are in the habit of referring all questions under it to that Government for its decision.

I can find no grounds for the apprehensions expressed in certain newspaper telegrams, to which the Secretary of Agriculture, in his letter of February 18, referred, that the system of exclusion and restrictive regulation was to be extended so as to include dressed beef and canned meats.

I have the honor to inclose herewith five copies of the imperial law of March 6, 1883, already mentioned, and to be, sir, etc.,

WM. WALTER PHELPS.

[Inclosure 1 in No. 88.]

Mr. Phelps to Count Bismarck.

LEGATION OF THE UNITED STATES,
Berlin, March 21, 1890.

The undersigned, envoy, etc., of the United States of America, has the honor, acting under instructions from his Government, to beg that His Excellency Count von Bismarck-Schönhausen, imperial secretary of state for foreign affairs, will kindly cause him to be informed as to the construction placed by the German authorities upon a certain ordinance restricting the importation of cattle from the United States and other countries which was issued by the senate of Hamburg under date of August 1, 1879, and which is understood to be identical with ordinances issued by the other seaboard states of the German Empire.

The information respectfully asked for is: Is the importation of such animals entirely prohibited, or may they be landed subject to a 4-weeks' quarantine? And, finally, must this quarantine be enforced upon animals which are to be transferred into the interior, although, if not intended for transportation, they could be slaughtered immediately at the port of entry?

The ordinance is understood to have been issued on account of the existence of pleuropneumonia in the United States. Since its issuance this disease has been almost entirely eradicated; it no longer exists in any section from which cattle for

export are obtained, and, if existing now at all, is confined to two counties on Long Island, N. Y., and one in New Jersey, all of which are in strict quarantine. The stock yards which might be dangerous have been thoroughly disinfected, and everything has been done to remove all danger of contagion hereafter.

Under these circumstances, and in view of the serious damage to a trade in cattle which is lucrative to both countries, caused by the existence of these restrictions as now enforced, it is respectfully asked if the quarantine of 4 weeks against American cattle to be transported into the interior, or, in any case, all restrictions against the immediate slaughter of cattle upon landing, may not be withdrawn.

The undersigned avails, etc.,

WM. WALTER PHELPS.

[Inclosure 2 in No. 88.—Translation.]

Ordinance concerning the prohibition of the importation of pigs, pork, and sausages of American origin of March 6, 1883.

We, William, by the grace of God, Emperor of Germany, King of Prussia, etc., decree in the name of the Empire, and with the consent of the Bundesrath, as follows:

SECTION 1. The importation of pigs and pork, including bacon and all kinds of sausages of American origin, is prohibited until further notice.

SEC. 2. The imperial chancellor is empowered, by applying the necessary precautionary measures, to permit exceptions to be made in this prohibition.

SEC. 3. The ordinance of the 25th of June, 1880, concerning the exclusion of American pork and sausages (Im. Law Gazette, p. 151) is abolished.

SEC. 4. The present ordinance goes into force after the expiration of the thirtieth day after its publication.

Given under our hand and the imperial seal.

WILHELM.
VON BISMARCK.

BERLIN, March 6, 1883.

Mr. Phelps to Mr. Blaine.

No. 126.]

LEGATION OF THE UNITED STATES,
Berlin, June 10, 1890. (Received June 28.)

SIR: I have the honor to suggest that the "Notice by the Department of State" herewith inclosed be so worded that the travelers for whose guidance it is intended may not possibly be misled.

The decree of May 22, 1888, transmitted with Mr. Coleman's dispatch No. 622 of June 1, 1888, requires a visé from the German embassy in Paris only for those entering Alsace-Lorraine from France.

In this connection, I would also suggest the advisability of warning the public, in such manner as the Department may deem best, that in many of the larger cities of Germany passports are required of all foreigners who therein take up even a short residence.

I have, etc.,

WM. WALTER PHELPS.

[Inclosure in No. 126.]

Notice by the Department of State.

Passports are necessary for the Turkish dominions, including Egypt and Palestine, and must be certified by a Turkish consular officer before entering Turkish jurisdiction. Persons quitting the United States with eventual purpose of visiting any part of Turkey are advised that their passports may conveniently be certified in advance by the consul-general of Turkey at New York, thus avoiding possible difficulty in obtaining the prescribed visé in another country en route.

Persons traveling with United States passports desirous of entering Germany from France should not neglect to have their passports viséd by the consul-general of Germany at Paris, thus possibly sparing themselves much inconvenience and delay.

Mr. Phelps to Mr. Blaina.

[Extract.]

No. 134.]

LEGATION OF THE UNITED STATES,
Berlin, June 30, 1890. (Received July 12.)

SIR: In transmitting to the Department a copy and translation of the note of Freiherr von Marschall, dated the 23d instant, covering the copies which he has sent us of the various decrees affecting the importation into the German Empire of horned cattle, hogs, and hogs' meat of American origin, you will notice that he explains and excuses such legislation "on account of the diseases of cattle existing in the United States."

I have, etc.,

WM. WALTER PHELPS.

[Inclosure in No. 134.—Translation.]

Baron Marschall to Mr. Phelps.

FOREIGN OFFICE,
Berlin, June 23, 1890.

The undersigned has the honor, complying with the request contained in the communications of January 3 and March 21 last, to transmit herewith and place at the disposal of the envoy extraordinary and minister plenipotentiary of the United States of America the decrees enumerated in the inclosed list which are in force in Germany regarding the importation of horned cattle, hogs, and hogs' meat of American origin.

These printed documents will furnish answers to the various questions contained in the communication of March 21 last.

As regards the suggestion for the removal or amelioration of the decrees restricting the import of American cattle, the Imperial Government is not in a position to change the present state of affairs on account of the diseases of cattle existing in the United States.

The undersigned avails, etc.,

MARSCHALL.

A decree respecting the prohibition of the importation of swine, pork, and sausages of American origin.

We, William, by the Grace of God, German Emperor, King of Prussia, etc., decree, in the name of the Empire, with the approval of the Bundesrath, as follows:

SECTION 1. The importation of swine and pork, including sides of bacon and sausages of all kinds of American origin is hereby prohibited until further notice.

SEC. 2. The chancellor of the Empire is authorized to grant exceptions to the above prohibition, provided that the necessary precautionary measures be adopted.

SEC. 3. The decree of June 25, 1880, prohibiting the importation of pork and sausages from America is hereby repealed.

SEC. 4. This decree shall take effect 30 days after promulgation.

In testimony whereof, we have affixed our signature and imperial seal.

Done at Berlin March 6, 1883.

[L. S.]

WILLIAM.
PRINCE VON BISMARCK.

Regulations for the execution of the imperial decree respecting the prohibition of the importation of swine, pork, and sausages of American origin of March 6, 1883.

The Bundesrath has approved, in its session of April 11, 1883, the following regulations for the execution of the imperial decree respecting the prohibition of the importation of swine, pork, and sausages of American origin of March 6, 1883:

(1) When swine or pork, including sides of bacon and sausages of all kinds, are imported from foreign countries, proof must be furnished that they are not of American

origin, either by a certificate of the German consul in the foreign district from which the importation is made or by a similar certificate from the competent police authorities of the country of origin. In the latter case the competency of the certifying police magistrate must be specially authenticated by the German consul. Such authentication shall not, however, be required in commercial transactions with Austria-Hungary in the case of certificates of origin issued or authenticated under the treaty concluded with that country February 25, 1860.

If the certificate of origin is not made out in the German language, an officially certified German translation must, at the request of the authorities having charge of importation or of transmission to the interior, be appended by the importer or dealer.

Certificates of origin must be issued by the authorities above mentioned (German consul and police authorities) not more than 30 days before the arrival of the shipments on the German frontier; such certificates are to be delivered, at the time of importation, to the frontier receiving office, or to such other officer as may have charge of importation, and are to be retained there.

(2) When live hogs are imported from foreign countries, they must be described in the certificates of origin as accurately as possible, as regards their number, breed, color, and other distinguishing external characteristics; it must also be certified therein that the animals have been raised in * * * (Austria-Hungary, Belgium, etc.), and that, for the 30 days preceding their shipment to Germany, they have been kept in a place (which must be specially designated) in the district in which the attesting office is situated.

When live pigs weighing less than 10 kilogrammes are imported, the designation thereof in the certificate of origin, according to number and breed, and a certificate that they were born in * * * (Austria-Hungary, Belgium, etc.) shall be sufficient.

(3) When pork, including sides of bacon and sausages of all kinds, is imported from foreign countries, a certificate shall be produced in which (a) the kind of goods, the number of packages, and the manner of packing and the label are stated; in such cases large lots may be identified by a stamp affixed by the competent police authorities; (b) a statement of the name and residence of the packer who has put up the goods must be therein contained, as likewise a certificate to the effect that the residence of the packer is in the district in which the certifying (non-American) office is situated, that the packer is not engaged in packing pork or bacon of American origin, or with the purchase or sale, or in otherwise dealing in such articles of American origin; and, finally, that the goods imported are from animals of non-American origin.

(4) The consular authentication of the certificates of origin may be dispensed with, in accordance with an order from the director of the frontier receiving office, or from the authorities having charge of importation, when there is no doubt that the certifying authority is the competent police authority of the country of origin. When live hogs are imported, the production of the certificate of origin may be dispensed with, provided that the above-named director consents, when there is no doubt that the animals have been brought from other countries than America; therefore, especially when the non-American origin is shown by the presentation of invoices, original bills of lading, commercial correspondence, or otherwise.

(5) The foregoing provisions may be set aside by the governments of districts in the case of frontier trade on a small scale; no special proof of the origin of the goods shall, moreover, be required in cases in which the goods in question are brought by travelers among their baggage for their own personal use.

(6) If the necessary certificates of origin are wanting when the animals and goods in question are imported, or if the certificates accompanying the shipment do not meet the present requirements, or if the shipments do not agree with their certificates of origin, and if it is impossible to furnish a satisfactory explanation thereof immediately, then, if no punitive measures are to be adopted on account of violation of the prohibition in question, the goods shall be sent back according to section 139 of the union customs law.

SCHOLZ,
(For the Chancellor of the Empire.)

BERLIN, April 12, 1893.

BERLIN, April 25, 1879.

The report of the royal government of Schleswig, bearing date of the 15th instant, has been received, and in reply I have to say that there is no occasion in the case of neat cattle imported from England to deviate from those measures whose adoption has been deemed advisable for the protection of our cattle from pleuro-pneumonia, which prevails so extensively in England.

I therefore order that all cattle introduced into Schleswig-Holstein from Great Britain shall be subjected, at the place of landing, to inspection for a period of 4 weeks in some locality where it will be impossible for them to come in contact with native cattle, and that they shall not be allowed to be driven or conveyed inland until the official veterinarian, after the expiration of the period of inspection, shall have pronounced them free from any contagious disease. Cattle from Great Britain that are introduced by rail shall, on reaching their place of destination, be subjected to a similar inspection in a suitable locality.

Inasmuch as the same reasons exist for the inspection of cattle from America, whether they are from Canada or any other part of that continent, I hereby instruct the royal government hereafter to subject cattle imported from America to inspection at the place of landing for a period of 4 weeks, instead of 10 days, as has hitherto been done.

The royal government will duly communicate the foregoing orders to cattle-importers and ship-owners in Schleswig.

FRIEDENTHAL,

Minister of Agriculture, Domains, and Forests.

To the royal government of Schleswig.

BERLIN, August 27, 1879.

A copy is sent to the royal prefect for his information, with instructions to order cattle imported from England and America to be subjected in like manner to inspection for a period of 4 weeks.

The other prefects concerned have been similarly instructed.

MARCARD,

Acting Minister of Agriculture, Domains, and Forests.

To the royal prefects at Lüneburg, Stade, Aurich, and Osnabrück.

Proclamation.

With a view to preventing the introduction of cattle diseases, it is hereby ordered that neat cattle imported into the duchy from Great Britain or America shall, on landing, be subjected, until further notice, to the inspection of a veterinarian for a period of 4 weeks, at the expense of the parties interested, in a locality to be designated by the proper authorities, where it will be impossible for them to come into contact with native cattle. If, at the expiration of the above-named period, the cattle have been pronounced by the veterinarian to be free from any contagious disease, they shall be allowed to be driven or conveyed inland.

Any person violating this regulation shall be punished by a fine not exceeding 150 marks, unless another penalty is provided in the penal code.

The ministry of state, department of the interior.

For insertion among Oldenburg announcements.

OLDENBURG, November 11, 1879.

A decree respecting the prohibition of the importation of pork and sausages from America.

Inasmuch as the importation of cut pork and sausages of all kinds from America has been prohibited until further notice by the imperial ordinance of June 24, 1880, the said prohibition not having reference to the importation of whole hams and sides of bacon, the chancellor of the Empire being authorized to grant exceptions thereto and to adopt such precautionary measures as may be necessary, the senate hereby decrees that any violation of this prohibition in cases not subject to the penal provisions of the union customs law of July 1, 1869, shall be punished by confiscation of the imported articles and by a fine not exceeding 1,000 marks.

Done at Bremen, in the session of the senate of July 2, and proclaimed July 4, 1880.

A decree respecting the prohibition of the importation of swine, pork, and sausages of American origin.

Inasmuch as the importation of swine, pork, and sausages of American origin is prohibited by the imperial decree of March 14, 1883, the senate hereby orders that any violation of that prohibition in cases not subject to the penalties of the union customs law of July 1, 1869, shall be punished by confiscation of the imported articles and by a fine not exceeding 1,000 marks.

With the approval of the chancellor of the Empire, authority is hereby given, on the basis of section 2 of the aforesaid imperial decree, to import into the free port district of Bremen whole sides of bacon and salt pork of American origin for reëxportation to foreign countries, and likewise salt pork for provisioning sea-going vessels, provided that the following precautionary directions be observed:

DIRECTIONS.

(1) It shall be the duty of owners of vessels, of corresponding outfitters of vessels belonging in this port, or of correspondents (residing in the territory of Bremen) of vessels not belonging in Bremen, or of any other persons having charge of the business of vessels, to deliver, on the arrival of a vessel, an accurate list of the articles composing the cargo thereof.

The same shall be done by the captain in the case of articles not mentioned in the manifest that are to be landed.

(2) Any person desiring to avail himself of the privilege of importing salt pork or whole sides of bacon of American origin for reëxportation to foreign countries, or salt pork for provisioning sea-going vessels, must previously petition the revenue authorities to allow him to keep a private bonded warehouse for that purpose.

A private bonded warehouse shall be granted only to dealers who keep a regular set of books and who enjoy the confidence of the revenue officers. The concession is revocable, and, when granted, security to the amount of 5,000 marks shall be furnished.

(3) On the arrival of the goods the receiver shall, in addition to the declaration of the same, deliver to the revenue authorities a statement of their quantity, weight, and marks and numbers, together with other particulars, as the said revenue authorities may direct.

The statement is to be delivered, together with the declaration of the goods, no matter whether the articles are landed at Bremen or Bremerhaven, or are transhipped.

(4) The owner of a private bonded warehouse shall deliver to the revenue authorities each month a specified statement of the quantity exported or transhipped, or sent to provision vessels, or sold to the owner of another private bonded warehouse without exportation, and he shall each year deliver to the revenue office, as it may direct, a general statement of the amount of business done by him.

(5) The revenue authorities shall keep, on the basis of the foregoing statements, a record of what is received, sent out, and kept on hand in the above-named bonded warehouses.

(6) The revenue authorities are at all times authorized to inspect bonded warehouses. It shall be the duty of the owners thereof to render such assistance as may be required for a thorough inspection.

(7) All declarations, statements, and accounts mentioned in this ordinance shall be made by the parties interested under oath and shall be subscribed by them.

Any violation of these directions shall be punished by a fine not exceeding 300 marks.

This decree shall take effect April 13, 1883.

Adopted at Bremen, in the session of the senate of the 20th of March, and proclaimed March 30, 1883.

A proclamation respecting the prohibition of the importation of swine, pork, and sausages of American origin.

The following regulations for the execution of the imperial decree of March 6, 1883, which were adopted by the Bundersrath in its session of the 11th instant, are hereby made public, with the remark that the prohibition to import also extends to transit.

At the same time, the following is made known concerning the execution of the regulations, which is to be in charge of the office for the collection of indirect taxes and imposts.

SECTION 1. Swine and pork, including sides of bacon and sausages of all kinds, of non-American origin arriving here by sea from foreign countries shall not be admitted until their non-American origin has been satisfactorily shown.

SEC. 2. Such evidence shall be furnished to the bureau of declaration in the manner required by the regulations, the declarations required by the law of March 27, 1874, being presented.

SEC. 3. Without the declaration mentioned in section 2, the articles mentioned in section 1 shall not pass the port of entry, nor shall they be brought to land or removed from one vessel to another.

SEC. 4. As regards the usage to be accorded to salt pork and sides of bacon of American origin arriving here, reference is made to the provisions of the proclamation of April 2, 1883, section 1, paragraph 1, of which must be modified as follows:

On and after April 13 of this year the importation of swine and pork, including sides of bacon and all kinds of sausages, of American origin shall be prohibited under the penalties provided in section 20 of the union customs law of July 1, 1869, viz: According to circumstances, confiscation of the articles imported in disregard of the prohibition and a fine amounting to double the value of the same.

At the same time permission is granted to the owners of such quantities of goods affected by the prohibition to import as have been received in bond here before the 30th of April, 1883, in their own interest, and for the avoidance of any subsequent extensions that may hereafter be made, to hand in lists of the bonded articles to the bureau of declarations within 3 days, the said bureau being authorized to certify to the correctness of the amount declared to be in bond and to issue an official certificate to that effect.

Done in the session of the senate, Hamburg, April 16, 1883.

A proclamation respecting the prohibition to import swine, pork, and sausages of American origin.

With reference to the imperial decree respecting the prohibition of the importation of swine, pork, and sausages of American origin, bearing date of March 6, 1883, and also in pursuance of an understanding had with the chancellor of the Empire, in accordance with section 2 of the said decree, the senate hereby proclaims the following:

SECTION 1. On and after April 13, 1883, the importation of swine and pork, including whole sides of bacon and sausages of all kinds, of American origin is prohibited under penalty of the confiscation of the illegally imported articles which is provided in section 134 of the union customs law of July 1, 1869, and of a fine to the amount of double the value of the said articles, but at least to the amount of 30 marks. The importation of whole sides of bacon and of salt pork of American origin into the free port district of Hamburg for reexportation to non-German countries and the provisioning of seagoing vessels with American salt pork in the free port district are not affected by this prohibition, provided that the following directions be observed:

SEC. 2. Salt pork and whole sides of bacon of American origin received here shall be stored only after inspection and in accordance with the directions of the wharf office. The warehouse expenses are the same as those that are required for the wharf granary, together with any others that may be incurred by the wharf office. There shall be no extra charges.

SEC. 3. It shall be the duty of the receivers of the goods designated in section 2, immediately after the arrival of the same, to make to the wharf office and to the declaration office an accurate statement of the number and weight, the marks and numbers, and of any other designations that may be shown by the ship's papers, of the casks and boxes containing the goods in question.

A similar statement shall be made by the captain with regard to goods not mentioned in the manifest that are to be landed.

SEC. 4. On withdrawing bonded goods from bond the exporter or shipper shall deliver to the wharf office a statement of the place to which he proposes to send the goods. Within 4 days he shall deliver to the said office—

(a) In the case of reexportation by sea, a duplicate of the bill of lading;

(b) In the case of reexportation by rail, the duplicate of a bill of lading stamped by the railway company and containing a statement concerning the origin of the goods;

(c) In the case of the transportation of salt pork for provisioning a seagoing vessel lying here, a certificate from the captain that he has received the meat on board of his vessel as provision.

When the goods are conveyed from the vessel for reexportation without being placed in bond, the duplicate of the bill of lading mentioned under (b) shall likewise be delivered to the wharf office within 4 days.

Reexportation by river vessels is prohibited under the penalty provided in section 1.

SEC. 5. When the goods are transhipped without being placed in bond, the wharf office must immediately receive a certificate to that effect from the receiver.

SEC. 6. All desired information must be furnished to the wharf office with regard to the whereabouts of imported goods.

Done in the session of the senate, Hamburg, April 2, 1883.

A proclamation relative to the transit of pork of American origin.

Notice is hereby given that the chancellor of the Empire, in accordance with section 2 of the imperial ordinance of March 6, 1883, has approved the following requirements:

(1) That in future, not only whole sides of bacon and salt pork, but every kind of pork of American origin, may be imported here for the purpose of reexportation, either by sea or by land, via the Hamburg and Kiel Railway, and the Hamburg, Lübeck and Wismar Railway, or via Rostock.

(2) That the transit of salt pork of American origin to Lübeck shall also be allowed for the purpose of provisioning vessels sailing from Lübeck.

The inspection of imports and reexports of pork of American origin shall be regulated according to the provisions of the proclamation of April 2, 1883, relative to the prohibition of the importation of swine, pork, and sausages of American origin.

The transit of pork of American origin from here through the German customs territory is allowed only via the aforesaid Hamburg and Kiel Railway, and that of Hamburg, Lübeck and Wismar, or via Rostock, but is forbidden via other railroads from this city. The transit shall take place in bonds.

Done in the session of the senate, Hamburg, April 22, 1885.

A proclamation relative to the declaration of American pork brought into this port as provision for vessels.

Referring to the proclamations of April 2 and 16, 1883, relative to the prohibition to import swine, pork, and sausages of American origin, the following proclamation is hereby made:

SECTION 1. Masters of vessels entering this port and having on board American pork as provision must, immediately after their arrival, inform the wharf office thereof, as well as the bureau of declarations, accurately stating the quantity of such pork that they have on board.

SEC. 2. Any violation of this order will subject the delinquent to the penalties provided in section 4 of the proclamation of April 16, 1883.

Done in the session of the senate, Hamburg, August 22, 1883.

Mr. Adee to Mr. Phelps.

No. 122.]

DEPARTMENT OF STATE,
Washington, July 10, 1890.

SIR: Referring to your dispatch No. 126 of the 10th ultimo, concerning the nature of the visé of passports required for persons entering Germany from France through Alsace-Lorraine, and also suggesting the advisability of warning the public that in any of the larger cities of Germany passports are required of all foreigners who take up residence therein even for a short time, I inclose herewith copies of the printed notice so modified in accordance with your suggestion.

Thanking you most cordially for bringing the matter to the attention of the Department,

I am, etc.,

ALVEY A. ADEE,
Digitized by *Acting Secretary.*

[Inclosure in No. 122.]

Notice by the Department of State.

Passports are necessary for the Turkish dominions, including Egypt and Palestine, and must be certified by a Turkish consular officer before entering Turkish jurisdiction. Persons quitting the United States with eventual purpose of visiting any part of Turkey are advised that their passports may conveniently be certified in advance by the consul-general of Turkey at New York, thus avoiding possible difficulty in obtaining the prescribed visé in another country en route.

Persons traveling with United States passports desirous of entering Alsace-Lorraine from France should not neglect to have their passports viséd by the embassy of Germany at Paris, thus possibly sparing themselves much inconvenience and delay.

It is also understood that in many of the larger cities of Germany passports are required of all foreigners who therein take up even a short residence.

Mr. Adee to Mr. Phelps.

[Extract.]

No. 123.]

DEPARTMENT OF STATE,
Washington, July 17, 1890.

SIR: Your dispatch No. 134 of the 30th ultimo, relative to the refusal of Germany to alter the regulations for the exclusion of American cattle, hogs, and hog products, has been received and confidentially communicated to the Secretary of Agriculture for his information.

The Department deeply regrets that Germany, in assigning reasons for her policy of exclusion, has again taken the untenable ground that American meats are unhealthful.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CORRESPONDENCE WITH THE LEGATION OF GERMANY
AT WASHINGTON.

Count von Arco-Valley to Mr. Blaine.

IMPERIAL GERMAN LEGATION,
Washington, March 2, 1890. (Received March 3.)

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, most respectfully herewith to transmit to you a copy of a memorandum relative to the execution of the Samoan general act.

Accept, etc.,

ARCO.

[Inclosure.]

Memorandum.

(1) The resolution of the Berlin conference (contained in articles IV and VII of the general act) relative to the Samoa Islands, concerning the prohibitions to sell land, to import and sell arms and munitions of war, and to sell spirituous liquors, have received binding force, through Samoan laws of December 18, 1889, for Samoans and other natives of the South Sea Islands.

In order to effect the same thing for the subjects and citizens of the signatory powers, the three consuls will have to be instructed to issue similar prohibitions as regards their respective countrymen by means of orders, provided such prohibitory orders have not already been issued.

(2) The same consuls will further have to be instructed to divide the municipal district into election districts in order to enable the chief justice, immediately after assuming the duties of his office, to cause the election to be held and the local government to be inaugurated, according to article V, section 6, of the act.

(3) It seems desirable, especially for financial reasons, that the stipulations of article VI of the treaty should be enforced before the final organization of the municipal government, which, according to article V, sections 5 and 6, of the act, can not take place until after the appointment and inauguration of the chief justice and the presiding officer of the municipal council.

To this end it will be advisable to authorize the three consuls, in concert with the Samoan Government, to fix at once, by public proclamation, an early day for the commencement of the collection of taxes and customs duties, and to appoint, provisionally, the necessary officers for the collection and management of the revenue until the municipal council shall have assumed control.

(4) As regards the officers to be appointed by the three treaty powers, the office of chief justice should be filled first. A person meeting the requirements of article III, section 2, of the general act might most appropriately be nominated for this position by the Royal Government of Great Britain.

Mr. Blaine to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, March 7, 1890.

SIR: Acknowledging the receipt of your note of the 2d instant, inclosing a copy of a memorandum submitted by your Government relative to the execution of the Samoan treaty, I have the honor to transmit to you herewith a copy of a telegram which I sent to the American vice-consul at Samoa on the subject.

Accept, etc.,

JAMES G. BLAINE.

[Inclosure.—Telegram.]

Mr. Blaine to Mr. Blacklock.

DEPARTMENT OF STATE,
Washington, March 6, 1890.

BLACKLOCK,
Vice-consul, Samoa:

Treaty ratified; exchange effected soon. Preparatory to its enforcement you may join simultaneously German and British consuls in orders restricting firearms and liquor traffic, in defining municipality election districts, and in concerting with Samoan Government to fix date for beginning collection of taxes and customs and provisionally appointing collectors.

BLAINE.

*Count von Arco-Valley to Mr. Blaine.**

WASHINGTON, May 1, 1890. (Received May 3.)

DEAR MR. BLAINE: In consideration of the circumstance that the President of the United States has transmitted, under the 16th of January last, to the Congress, a message relating to the claim of Sweden

* In place of a verbal communication.

and Norway for the benefit of the lower rate of tonnage dues, and, further, that on the 16th ultimo a bill (H. R. 9748) has been brought into the House of Representatives and has been favorably reported, I take the liberty to bring to your memory the proclamation of the President of January 26, 1888, wherein he declared and proclaimed, by virtue of the authority vested in him by section 11 of the act of Congress entitled "An act to abolish certain fees for official services to American vessels, etc.," approved June 19, 1886, that from and after the date of this, his proclamation, shall be suspended the collection of the whole of the duty of 6 cents per ton, not to exceed 30 cents per ton per annum (which is imposed by the said section of said act), upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany.

But the clear sense of this proclamation has been altered by the interpretation of the commissioner of navigation, who, in contradiction with the reading and meaning of the proclamation, and also with the opinions of the members of the Cabinet, has put in the word "directly," and has decided that only such German vessels which sail direct from German ports to the United States ports are exempted from paying tonnage dues.

My predecessor, Mr. von Alvensleben, protested, with a personal note of February 25, 1888, against the action of commissioner of navigation, as in direct contradiction with the proclamation of the President, and the Secretary of State, by his note dated February 28, 1888, promised to give a speedy remedy and a detailed reply to the protest; but, notwithstanding different verbal communications of Mr. von Alvensleben and myself, no answer of the State Department has until this date reached this legation.

As your attention probably has been recalled to this matter by the steps taken in favor of Sweden and Norway, I avail myself of this opportunity to say that the views my Government takes in this matter are still the same, and that I respectfully beg to be favored with the reply promised to this legation more than 2 years since by the State Department.

Believe me, etc.,

ARCO.

Mr. Blaine to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, May 26, 1890.

MY DEAR COUNT ARCO: Your note of the 1st instant in relation to the imposition of tonnage dues on vessels coming from German ports by indirect voyages to the United States has been duly considered and has formed the subject of correspondence with my colleague of the Treasury.

Your complaint relates particularly to the tax imposed on certain vessels of the North German Lloyd's entering at the port of New York from Bremen, via Southampton, Havre, or other intermediate ports. It is believed that the question to which your note relates has been made the subject of a suit in the courts, which has not yet been decided.

Without reference, however, to that fact, it is proper for me to say that the decision of the commissioner of navigation which it is sought to reverse does not seem to have been altogether correctly apprehended.

It is not understood that the commissioner of navigation has decided

that exemption from tonnage dues shall be accorded only to such German vessels as sail directly from German ports to ports in the United States. On the contrary, it is stated that no absolute rule of decision has been adopted, but that all the circumstances attending deviations to other countries in voyages beginning in German ports and ending in ports of the United States are considered and action taken in accordance with the facts in each case.

A misunderstanding as to the effect of the circular of the Treasury appears to have arisen from a verbal departure in that document from the language employed in the proclamation. The proclamation provides for a suspension of tonnage dues "upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany." The circular ordered the suspension of the collection of dues on vessels entered in ports of the United States "direct" from German ports. This was ordered as a matter of course. The cases of vessels not coming directly to the United States were reserved for consideration, and when deviations have been occasioned by distress or an intention to aid other vessels in distress, or analogous cases, exemption from the tax has been granted. While the word "direct" is not found in the proclamation, it is not understood to have been the purpose either of the law or of the proclamation to allow vessels trading with England, France, or other foreign countries to enter free of duty merely because they sail originally from ports in Germany.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, December 1, 1890.

SIR: I have the honor to inclose herewith, having regard to previous correspondence with your legation, a copy of a circular issued by the commissioner of navigation, of the Treasury Department, the 28th instant, touching the payment of tonnage dues. It concludes as follows:

The fact that a vessel touches at an intermediate port, at which it neither enters nor clears, and which touching is merely an incident in the voyage, will not deprive such vessel of the rights derived from sailing from a free port, such being its port of departure.

Accept, etc.,

JAMES G. BLAINE.

[Inclosure.]

TREASURY DEPARTMENT,
BUREAU OF NAVIGATION,
Washington, November 26, 1890.

COLLECTOR OF CUSTOMS, New York.

SIR: In construing the circular from the Bureau of Navigation, dated February 1, 1888, and in determining the liability of vessels to the payment of tonnage dues, collectors will look to the real port of departure and the actual voyage. The fact that a vessel touches at an intermediate port, at which it neither enters nor clears, and which touching is merely an incident in the voyage, will not deprive such vessel of the rights derived from sailing from a free port, such being its port of departure.

Respectfully, yours,

WM. W. BATES,
Commissioner.

Approved:

WILLIAM WINDOW,
Secretary of the Treasury.

GREAT BRITAIN.

Mr. Blaine to Mr. Lincoln.

No. 141.]

DEPARTMENT OF STATE,
Washington, December 6, 1889.

SIR: I have to inclose herewith for your information a copy of a letter of the 15th of October last from Mr. A. Bunker, an American missionary in Burmah, who writes in behalf of the American missionaries in that country, who are said to be a hundred and twenty-three in number. These missionaries are maintained by allowances from missionary boards in the United States and in many instances probably have no other source of support. It seems that the Indian Government at first imposed a tax on these allowances as income, but has now imposed a similar burden on moneys paid for the support of the families of these missionaries in the United States.

The Department hopes that Her Majesty's Government will look into this matter, which, as stated, appears to involve hardship and injustice to a most meritorious class of persons engaged in labors which have always received the encouragement and support of both Governments.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 141.]

Mr. Bunker to Mr. Blaine.

TOUNGGOO, BURMAH, *October 15, 1889.*

MY DEAR SIR: From the knowledge I have of you I do not think I shall ask advice of you in vain.

By way of introduction, I am from the State of Maine, a graduate of Colby University and of Newton Theological Seminary, and a missionary of the A. B. M. Union. I have been in Burmah 23 years.

I am writing you in behalf of 123 missionaries, all American citizens. I reluctantly trouble you in the great affairs of state in which you are engaged, but I do not forget that it is the glory of our country that the humblest citizen can appeal to the greatest, with the assurance that his case will meet with all the attention it merits.

Our case is this: We missionaries give our whole time and strength to the work of Christianizing, educating, and civilizing these heathen English subjects, supported solely by the benevolent in America. We receive not one rupee of English money for our support. We draw nothing from the country by way of trade. We bring thousands of American money into the country, but take nothing out.

The Indian Government has imposed an income tax on its subjects and on us. We have represented the above facts to the governor-general as a reason why we should not pay an income tax, especially as our allowances from America are not regarded by our supporters as remuneration for services rendered; but the reply we receive is substantially as follows: "It pleases the governor-general to tax all missionaries, and you must be taxed." We should submit to this with what cheerfulness we could, but a new order has now been issued, which appears to us to be so *ultra vires* and so unjust that we can not remain quiet without an effort to secure protection from our own Government. The new order demands that we shall pay income tax on all moneys paid for the support of our families in America. This seems very much like the spirit which

led the English to assume the right to search our sailing vessels on the high seas, which led to the war of 1812. It looks to us like an insult to our nationality in assuming such powers.

I write, therefore, in behalf of my associates to ask if there is any ground on which we may bring this matter before you officially for your interference or help. Any advice you may give us shall be strictly confidential. This matter is a small thing compared with the great questions you are daily considering, but it appears to us to affect a principle, to claim a right, which we, as American citizens, can not safely grant, and which under other circumstances might become of some importance. It affects us who have families in America most seriously.

If you will advise us, you will add a new bond to those which bind us to the best and most glorious government that ever existed, which is more beloved the longer we live in a foreign country, and for which we pray daily.

I am, etc.,

A. BUNKER.

Mr. Blaine to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 30, 1889.

Authorizes Mr. White to confer with Lord Salisbury concerning the reestablishment of diplomatic relations between Great Britain and Venezuela upon the basis suggested by the Venezuelan minister, of temporary restoration of *status quo*.

Mr. Lincoln to Mr. Blaine.

No. 151.]

LEGATION OF THE UNITED STATES,
London, January 6, 1890. (Received January 20.)

SIR: Referring again to my dispatch No. 84 of September 19, 1889, on the subject of the discrimination charged by Mr. Phelan as being enforced against American vessels in the port of Halifax in the matter of compulsory pilotage, in which I suggested that in saying that "American vessels of 80 tons and over are liable to pilotage which is practically compulsory, while Canadian vessels are exempt up to 120 tons," Mr. Phelan had possibly overlooked a distinction between Canadian vessels engaged in their coasting trade and other Canadian vessels. I now have the honor to inclose a copy of a note from the Marquis of Salisbury on the subject, dated the 3d instant, from which it appears that at the port of Halifax all vessels, whether British or foreign, coming from foreign ports, and which are over 80 tons register, pay pilotage dues; but that vessels registered in the Dominion not over 120 tons registered tonnage engaged in trading or fishing voyages within ports in the Dominion of Canada, Newfoundland, and St. Pierre, Miquelon, are exempted from compulsory pilotage.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 151.]

Sir James Fergusson to Mr. Lincoln.

FOREIGN OFFICE, January 3, 1890.

SIR: With reference to my note of the 12th of October last, I have now the honor to inclose an extract from a report of a committee of the privy council of the Dominion of Canada, approved by the governor-general in council, respecting the alleged

discrimination between British and United States vessels in respect to pilotage dues levied at Halifax, which formed one of the subjects of complaint in Mr. White's note of the 18th of March last.

It will be seen from this report that all vessels registered in the Dominion not over 120 tons register engaged in trading or fishing voyages within ports in the Dominion, Newfoundland, and St. Pierre, Miquelon, are exempted from compulsory pilotage dues, but that all other vessels, whether British or foreign, coming from foreign ports and which are over 80 tons register pay these dues.

I have, etc.,

(For the Marquis of Salisbury),
JAMES FERGUSON.

[Extract.]

The minister of marine observes, with reference to the matter of an alleged discrimination between British and American vessels in respect to the pilotage dues levied at the port of Halifax, that by the report received from the pilotage authority no exemption is allowed to Canadian fishing vessels in the matter of pilotage dues other than that permitted by by-law No. 26, which by-law was duly approved by minute of council dated May 24, 1877, and reads as follows:

"All vessels registered in the Dominion of Canada not over 120 tons registered tonnage engaged in trading or fishing voyages within ports in the Dominion of Canada, Newfoundland, and St. Pierre, Miquelon, to be exempted from compulsory pilotage."

The minister further states that the by-law in question was framed by the pilotage authority under the provisions of the fifty-ninth section of the pilotage act, chapter 80, revised statutes, which provides that ships of such description and size not exceeding 250 tons registered tonnage, as a pilotage authority of a district with the approval of the governor in council from time to time determines to be exempt from the compulsory payment of pilotage in such district, shall be exempt from the compulsory payment of pilotage dues.

The minister recommends that under the authority of this by-law all vessels registered in the Dominion of Canada not over 120 tons, and which are engaged in trading or fishing voyages within ports in the Dominion of Canada, Newfoundland, and St. Pierre, Miquelon are exempt from compulsory pilotage at the port of Halifax, but the pilotage authority states that "all other vessels, whether British or foreign, coming from foreign ports, and which are over 80 tons register, pay pilotage dues."

Mr. Lincoln to Mr. Blaine.

No. 184.]

LEGATION OF THE UNITED STATES,
London, February 19, 1890. (Received March 3.)

SIR: I have the honor to inclose herewith a copy of a letter which I have addressed to the United States consul at Liverpool, stating my reasons for refusing to issue a passport to Mr. Samuel B. Oliver, whose application for the same had been forwarded by Mr. Sherman.

My action in this case is in accordance with my understanding of the views of the Department, gathered from instructions to myself and from the Digest, and I would be glad to be informed if I am in error, as I have an intimation of a future application in which the circumstances of the applicant are not unlike those of Mr. Oliver.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 184.]

Mr. Lincoln to Mr. Sherman.

LEGATION OF THE UNITED STATES,
London, February 14, 1890.

SIR: I have to acknowledge the receipt of your letter of the 11th instant, returning the application of Mr. Samuel B. Oliver for a passport with further information transmitted by you.

From the application and the additional information in your letter, it appears that the applicant, the son of a native American residing in Liverpool and registered at the United States consulate there as a citizen of the United States, was born in New Orleans, La., August 14, 1855, left the United States when "a mere child," and has never been domiciled there since. For the past 16 years he has been in business in Brazil, and has been in the United States as a visitor only, the only occasion mentioned being a visit which ended in July 17, 1889. He holds passport No. 71, issued by the United States consul at Rio de Janeiro, October 9, 1878. He has recently temporarily sojourned in Liverpool, having no occupation, and has now gone to seek business in Portugal. It is stated that, "although hoping and intending ultimately to reside in the United States, the time for his return thither can not be stated even approximately."

A part of the above statement is derived from your letter used as a supplement to the incompletely-filled-up application for a passport presented through you by Mr. Oliver.

There is no doubt that the applicant, being a citizen of the United States by birth, would, if personally subject to their jurisdiction, be entitled to all the rights and privileges of such citizenship; but, assuming as I must, that he has presented all the controlling facts favorable to his application which he wishes to have considered, it is my opinion that Mr. Oliver is within the class of citizens who, in the view of the Department of State, are not entitled to claim the protection of our Government as a right. In such cases it is held that it is always a matter of discretion, in each individual case, as to whether or not a passport shall be issued. In exercising this discretion it is, of course, my duty to apply the principles of the known instructions of the Department in similar cases, though it is impossible to find one case identical with another in all the circumstances which should be considered.

Mr. Oliver is now nearly 35 years of age, and, having lost his domicile in the United States when a child, has not sought to regain it in the 14 years which have passed since he reached manhood, more than all of which he has spent in Brazil; and now, when he finds himself without occupation, he does not seek it within the jurisdiction of the Government whose protection he asks, but does so in Portugal. It is not suggested that he has property interests in the United States, or that he has ever performed any duty of an American citizen, or that, excepting on one temporary visit, he has ever permitted himself to be subject to the enforcement of such performance. The indication of a purpose to return and assume such duties is so vague that, while it may not be equivalent to the expression of a purpose never to do so, it seems to me to be equivalent to the absence of any such bona fide intention. Under these circumstances, the language of a former distinguished Secretary of State, Mr. Fish, is very apt:

"Citizenship involves duties and obligations, as well as rights. The correlative right of protection by the Government may be waived or lost by long-continued avoidance, and silent withdrawal from the performance, of the duties of citizenship as well as by open renunciation."

I think, therefore, that under the above and other decisions of the Department of State the exercise of my official discretion to issue the passport requested by Mr. Oliver would be of such doubtful propriety that I must decline to do so and leave Mr. Oliver to apply directly, or through this legation if he so desires, to the Department of State, by which any error of judgment committed by me in the premises may be corrected.

I return herewith the postal order for 4s. 2d. you sent me.

I am, etc.,

ROBERT T. LINCOLN.

Mr. Blaine to Mr. Lincoln.

No. 215.]

DEPARTMENT OF STATE,
Washington, March 19, 1890.

SIR: I have received your No. 184 of the 19th ultimo, in relation to the passport application of Mr. Samuel B. Oliver.

The views stated in your letter to Mr. Thomas H. Sherman, United States consul at Liverpool, of the 14th ultimo, are approved, but before rendering a decision on the case the Department will consider any application and statement Mr. Oliver may desire to make, either directly or through the legation, in reference to his departure from the United States and his residence abroad. It is desirable that his statement should be full and explicit.

I am, etc.,

JAMES G. BLAINE.

Mr. Lincoln to Mr. Blaine.

No. 197.]

LEGATION OF THE UNITED STATES,
London, March 20, 1890. (Received April 5.)

SIR: With reference to your instruction No. 141 of December 6, 1889, relating to the income tax imposed in Burmah upon American missionaries residing there, I have the honor to acquaint you that on the 18th of December last Mr. White, then chargé d'affaires, addressed to Her Majesty's Government a note, of which a copy is inclosed, and that I am now in receipt of a reply from the Marquis of Salisbury, dated the 18th instant, of which a copy (with its original printed inclosures) is also transmitted herewith, from which it will be seen that Lord Salisbury expresses his regret that the Government of India, after a full consideration of the case, are unable to make an exception in favor of the missionaries.

It seems that Mr. Bunker, who addressed you in the matter, complains especially that the tax is charged upon, not only that portion of their salaries paid the missionaries in Burmah, but upon that portion thereof which is arranged to be paid directly to their families remaining in the United States. It would appear that the law requires the tax to be assessed upon "income or profits accruing and arising or received in British India," and that the Government of India holds that the income of a missionary residing in India accrues or arises there, though it may not be received there. I venture to suggest that the income tax act in India, in this respect, does not seem to be more rigid than was our own act of 1862 (sec. 90, chap. 119, 2d sess. 37th Cong.), under which a tax was laid upon the excess over \$600 of the annual gains, profits, or income of every person residing in the United States.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in No. 197.]

Mr. White to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, December 18, 1889.

MY LORD: I have the honor to acquaint Your Lordship that a letter has been addressed to the Secretary of State by Mr. A. Bunker, an American missionary, of Tonnago, Burmah, who writes in behalf of 123 American missionaries in that country, stating that not only are they compelled to pay an income tax upon the allowances received for their support from the missionary boards in the United States, but that a recent order has been issued by the Indian Government, in virtue of which they will be compelled "to pay income tax upon all moneys paid for the support of our (their) families in America."

It is hoped by the Department of State that Her Majesty's Government will be so good as to look into the case of these missionaries, which, as stated by Mr. Bunker, appears to involve serious hardship and injustice to a meritorious class of persons, who are engaged in labors which have always received the encouragement and support of the United States and British Governments, and many of whom are believed to have no other source of income than the aforesaid allowances.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 197.]

The Marquis of Salisbury to Mr. Lincoln.

FOREIGN OFFICE, *March 18, 1890.*

SIR: With reference to my note of the 28th of December last, relating to the income tax paid on their salaries and family remittances by American citizens resident in

Burmah who are engaged in missionary work, I have the honor to transmit to you the accompanying correspondence on the subject which has been received from the Government of India.

You will observe, from a perusal of these papers, that a similar question has been raised with respect to other classes of persons resident in India whose incomes are derived from other countries, and that it has been decided that such incomes are liable to the tax. I have to express to you my regret that the Government of India, after a full consideration of the case, are unable to make an exception in favor of the missionaries.

I have, etc.,

SALISBURY.

[Inclosure.]

GOVERNMENT OF INDIA, DEPARTMENT OF FINANCE AND COMMERCE.

[Inclosure of dispatch No. 41 of 1890.]

NO. 383—5 A, DATED 13TH SEPTEMBER, 1889.

From H. T. White, esq., officiating chief secretary to the chief commissioner, Burmah.

To the secretary to the Government of India, department of finance and commerce :

I am directed to forward copies of the letters cited in the (1) letter from missionaries to financial commissioner; (2) Messrs. Moylan and Eddis's letter No. 161, dated 4th September, 1889; (3) letter No. 377—5 A., dated 25th July, 1889, from secretary to financial commissioner to commissioner income tax Rangoon town district, being representations made in the matter of income tax by the American Baptist mission resident in Burmah, and the employés of the Irrawaddy Flotilla Company, limited. In these cases exemption is claimed for a portion of the incomes on the grounds that such portions are drawn either in America or in England.

(2) A reference to letter No. 377—5 A., dated July 25, from secretary to the financial commissioner to commissioner income tax, Rangoon town district, will show that the financial commissioner ruled that, under section 3, clause 5, of the income tax act, "income" includes "income and profits accruing and arising or received in British India," and that the servants of the Irrawaddy Flotilla Company, limited, and the American Baptist missionaries in Burmah were accordingly liable to income tax in respect of any part of their salaries received out of but accruing in British India. The servants of the Irrawaddy Flotilla Company and the American Baptist missionaries were, however, informed by the financial commissioner that, should they wish to petition the Government of India in the matter, their petitions would be forwarded.

(3) I am to say that, in the opinion of the financial commissioner, Burmah, in which the officiating chief commissioner concurs, the servants of the Irrawaddy Flotilla Company, limited, and of the American Baptist mission are liable to pay income tax on the whole of their incomes wherever they may be paid, unless they are specially exempted under section 6 of the income tax act, and no reason is apparent why in these cases any exemption to the general rule should be allowed.

(4) Pending the decision of His Excellency the governor-general in council on this reference, the operation of the act, so far as it affects the portions of the salaries drawn by the petitioners out of British India, has, under the financial commissioner's instructions, been suspended, and I am therefore to request that His Excellency in council may be pleased to issue early orders in regard to this matter.

IN THE COURT OF THE FINANCIAL COMMISSIONER, BURMAH.

The petition of the American Baptist missionaries resident in Burmah.

Respectfully sheweth: That your petitioners are citizens of the United States of America now residing in Burmah, and that they enjoy the protection of and assist in maintaining the laws in force in this province of Her Majesty's empire.

(2) That the income of your petitioners is derived from salaries received from the United States of America, paid them by their society, being the donations of the benevolent people of their own religious belief, and, with the two exceptions noted below, no part of their income is derived from local sources or from sources within Her Majesty's domain.

Exception (a).—The salary of the superintendent of their mission press in Rangoon is paid from the income of the press, and the income tax to be assessed upon this salary is not included in the subject-matter of this petition.

Exception (b).—A few of your petitioners derive a portion of their income from personal estates or investments in Burmah, and the income tax to be assessed upon such income is not included in the subject-matter of this petition.

(3) That many of your petitioners have members of their families remaining in the United States who are dependent upon the salaries of your petitioners for their support, and others have other demands made upon them, compelling them to leave a share of their income in the United States. The portion so left in the United States is in many cases one-fourth of the appointed salary, in other cases one-half, and in still other cases as much as two-thirds the appointed salary.

(4) That by your decision, communicated to your petitioners by the deputy commissioner of Rangoon in his letter No. 9-14, dated 27th July, 1889, the practice of the collector of income tax for the past year has been reversed, and income tax is now assessed upon the whole appointed salary of each missionary, without reference to the question as to what part is actually received in Burmah and what part is not so received.

(5) That the portion of salary of each of your petitioners which he or she actually draws in Burmah is sent from the United States to the mission treasurer in Rangoon, and is by him paid to each. The portion of the appointed salary paid to members of families or otherwise in the United States does not in any way come into the hands of the mission treasurer in Rangoon, or of the missionaries in Burmah. It therefore never comes within the boundaries of Her Majesty's domain.

(6) That the assessing of income tax upon income which never reaches your petitioners residing in Her Majesty's empire, but which is held in your petitioner's own country, is felt to be a hardship, especially so since it is firmly believed that Her Majesty's laws enacted for India could not, when they were enacted, have contemplated the exaction of a tax from persons temporarily residing within Her Majesty's power upon their property which never comes within the borders of Her Majesty's realm and over which Her Majesty would naturally have no control.

(7) Wherefore your petitioners pray that your former decision may be reversed, and that you will order that income tax be assessed only upon such part of your petitioner's income as actually comes into Her Majesty's empire.

(8) Your petitioners further pray that if it may not be in your power so to construe the law as now in force, that you will be pleased to forward this, our petition, to the Government of India for such consideration and action as may in the premises be just and right.

And your petitioners will, as in duty bound, ever pray.

NO. 377.—5 A, DATED 25TH JULY, 1889.

From the secretary to the financial commissioner of Burmah.

To the commissioner of income tax, Rangoon town district :

In reply to your letter No. 11-13, dated the 8th July, 1889, inquiring whether part IV of the second schedule of the income tax act, 1886, should be interpreted so as to include or to exclude portions of salaries accruing and arising in, but paid out of, British India, I am directed to say that section 3, clause 5, of the income tax act makes "income" include income and profits accruing and arising or received in British India, and that the servants of the Irrawaddy Flotilla Company, limited, and the American Baptist missionaries in Burmah are accordingly liable to income tax in respect of any part of their salaries received out of British India. If the servants of the Irrawaddy Flotilla Company and the American Baptist missionaries wish to petition in the matter, I am to say that the financial commissioner will forward their petitions for the orders of the Government of India.

(2) A ruling has been given on a reference made by the commissioner of Pegu on the question raised in your letter.

NO. 6108, DATED DECEMBER 3, 1889.

Resolution by the Government of India, department of finance and commerce.

Read—

Proceedings of the government of Bombay in the financial department for February, 1887, No. 265.

Letter to the government of Bombay, No. 6665, dated 19th December, 1887.

Letter from the chief commissioner of Assam, No. 122, dated 11th January, 1888.

Letter to the chief commissioner of Assam, No. 1424, dated 16th March, 1888.

Letter from the chief commissioner of Assam, No. 1042, dated 9th April, 1888.

Letter to the chief commissioner of Assam, No. 6348, dated 28th November, 1888.

Letter from the chief commissioner of Burmah, No. 393—5 A, dated the 13th September, 1889.

Resolution.—In its proceedings for February, 1887, the government of Bombay, on the advice of the legal remembrancer, decided that those portions of the salaries of certain mechanics employed in cotton mills in Ahmedabad which under agreement were paid by their employers in England were liable to taxation under act II of 1886 (Part IV of the second schedule).

(2) In January, 1888, the chief commissioner of Assam asked whether commissions earned by managers and assistants of tea concerns in India, but paid in England and not remitted to India, are liable to income tax.

(3) In September, 1889, the chief commissioner of Burmah transmitted for orders representations made on behalf of certain members of the American Baptist mission and the employés of the Irrawaddy Flotilla Company, praying to be exempted from the taxation of such portion of their income as was not paid in British India. In the case of the missionaries, it was contended that their income or salary was derived from donations in the United States, and that the portion of it paid in that country never reached India. In the case of the employés of the Irrawaddy Flotilla Company, it was urged that the portion of their salaries paid in Scotland should be exempted.

(4) These cases have now been fully considered, and the governor-general in council is advised that in all of them the incomes are liable to the tax under the terms of section 3 (5) of the act, since they accrue and arise (though they may not be received) in British India. The definitions of "salary" and "income" given in the act no doubt overlap each other, but there is no reason why the one word should not be construed as supplementing rather than restricting the other, and, although salary includes commissions, perquisites, and profits of an employment only when received in British India, yet if profits accrue or arise in British India to any person resident in British India by reason of his employment, and such profits are not received in this country (as in the cases in question), they are taxable as "income" under part IV, though if received here they would be taxable as "salary" under part I of the second schedule of the act.

(5) The governor-general in council accordingly directs that the decision stated in the foregoing paragraph be acted upon in future by all local authorities.

Order.—Ordered, that the foregoing resolution be communicated to all local governments and administrations for information and guidance.

Mr. Blaine to Mr. Lincoln.

No. 219.]

DEPARTMENT OF STATE,

Washington, March 24, 1890.

SIR: I transmit herewith copy of a letter from Mr. F. C. Van Duzer, dated London, March 5, 1890, from which it appears that on recently applying to your legation for a passport he found himself unable conscientiously to make declaration as to the time within which he intends to return to the United States "with the purpose of residing and performing the duties of citizenship therein," as contemplated in the prescribed form of application.

In the closing part of Mr. Van Duzer's letter, in which he expresses his view "that there should be some means to enable Americans residing abroad, against whom there can be no possible objection raised, to obtain a passport for their personal protection quite as readily as it is possible for a native American in America to obtain it," he appears to lose sight of the essential difference in the *prima facie* presumption raised in the two instances. In the case of a native American in America, the presumption exists of domicile in the United States and of actual fulfillment of the duties of citizenship. Even in this case, as you perceive from the text of the form of application to be filled out by native citizens

in this country seeking passports directly from this Department, the applicant is required to declare that his absence is temporary, and that he intends to return hither to discharge the duties of citizenship.

The Department is aware of the difficulty which an American citizen engaged in business abroad may find in conscientiously declaring a limit to the period of his foreign residence, and Mr. Van Duzer's frank statement in this regard is appreciated. In general, the intention to return is most adequately to be declared by fixing a time within which to do so; and it is usually expected that this will be done.

An American citizen residing abroad as the foreign agent of an American business may not be in a position to make such a declaration, but the facts of the case may point to such conservation of interests in his native land as to make his return at some time to his real home a reasonable probability.

You have not reported this case; doubtless, because, as would seem from Mr. Van Duzer's letter, his application did not pass beyond the stage of preliminary inquiry. This instruction is, however, sent for your guidance should he make renewed inquiry on the subject, as he has been told he may do. Your known discretion in treating this class of cases leads the Department to leave to your good judgment a disposition of Mr. Van Duzer's application in just accord with the law and facts; but, should the surrounding circumstances suggest doubts of his title to protection, you may report the case fully and await instructions.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 219.]

Mr. Van Duzer to Mr. Blaine.

LONDON, 5th March, 1890. (Received March 17.)

SIR: Having applied to our minister in London for a passport to enable me to travel on the continent under the protection of the United States of America, I had placed before me a new form, which, under the regulations of the State Department, is necessary to be sworn to. I was unable to take my oath to the paper, owing to the following printed lines contained in it, which, at the legation I was informed, they had absolutely no right to vary or erase:

"That I intend to return to the United States within —— with the purpose of residing and performing the duties of citizenship therein."

The blank left in the form could be filled up very easily by one willing to sign a paper undertaking to return home, "with the purpose of residing and performing the duties of citizenship," with the hope that within the time entered in the blank he would, with a mental reservation, do so.

I, however, felt, and so informed the legation, that I could not conscientiously say that I expected at any stated period to return home, "with the purpose of residing and performing the duties of citizenship."

My hope and desire and intention is, however, at any moment when it is possible, to return home to live, but business prevents my being able to name any fixed time for so doing.

With the above explanations, I ask that I should be informed by the State Department by what means I can, as a native-born American citizen, the head of a branch office in London of an American house, obtain that protection by the granting to me of a passport, which every American citizen certainly has the right, not only to demand, but to easily obtain.

It is without doubt in the knowledge of the State Department that there are many Americans in London, as well as in the other large continental centers, who, while remaining citizens of the United States, and with every desire to return home to their friends and their country, are forced, owing to the exigencies of business, to remain and manage that branch of their business which is located in a foreign country, and with every hope and every desire and every longing to return home, can

not, with any degree of certainty, say when the long-looked-for time or opportunity may arrive; therefore, I really think that, as this question is of so great an importance to Americans, that I must ask you to let me have some reply that will overcome the difficulty which prevents us abroad from obtaining the passport which we are entitled to.

I quite realize that my position does not warrant any change being made in the regulations decided upon by the State Department in Washington, but I maintain that my position is the same as the position of one of our most honored American residents in London, namely, J. S. Morgan, and that under the present regulations it would be impossible for him to obtain a passport; and it does seem to me that there should be some means to enable Americans residing abroad, against whom there can be no possible objection raised, to obtain a passport for their personal protection quite as readily as it is possible for a native American in America to obtain it, and equally as easy as it is for a naturalized American.

Apologizing for the length of this letter and feeling sure that I shall receive a prompt reply,

I remain, etc.,

F. C. VAN DUZER.

Mr. Lincoln to Mr. Blaine.

No. 203.]

LEGATION OF THE UNITED STATES,
London, March 28, 1890. (Received April 8.)

SIR: I have the honor to invite your attention to the inclosed copy of a paper issued by the executive of the State of Minnesota, presented at this legation to-day by Mr. Louis Wagner, named therein, he supposing it to be a regular passport. The original is an engraved or lithographed form, completed, for this particular case, by the insertion in writing of the words underlined in red in the copy.

Mr. Wagner states that he is of German birth and a citizen of the United States by naturalization; his plans of travel make a passport desirable, and he is most unexpectedly, in consequence of being misled by the above-mentioned paper, given the trouble of procuring from St. Paul, Minn., the certificate of his naturalization, needed in aid of his application at this legation.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 203.]

Certificate of the governor of Minnesota.

STATE OF MINNESOTA.

To whom it may concern :

The bearer hereof, Louis Wagner, is a worthy and respected citizen of this State, a resident of St. Paul, county of Ramsey, State of Minnesota, United States of America. He is now about leaving home to travel in Europe, and I cordially bespeak for him the kind attention of all to whom these presents may come.

In witness whereof I have hereunto set my hand and caused the great seal of the State to be affixed, at St. Paul, this 24th day of February, A. D. 1890.

[SEAL.]

W. R. MERRIAM,
Governor.

H. MATTSON,
Secretary of State.

Mr. Lincoln to Mr. Blaine.

No. 204.]

LEGATION OF THE UNITED STATES,
London, March 31, 1890. (Received April 14.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 215, in relation to the application of Mr. Samuel B. Oliver for a passport, and to inform you that, not having Mr. Oliver's address, I have caused a copy of this instruction to be forwarded to Mr. Sherman, our consul at Liverpool, through whom the application was made. Should Mr. Oliver renew his application through this legation, it will be promptly forwarded to you on its receipt.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Lincoln to Mr. Blaine.

No. 212.]

LEGATION OF THE UNITED STATES,
London, April 9, 1890. (Received April 21.)

SIR: Referring to my dispatch No. 204 of the 31st ultimo, and to previous correspondence relative to the application of Mr. Samuel B. Oliver for a passport to this legation, I have the honor to inclose herewith the copy of a letter received to-day from the consul at Liverpool, from which it will be seen that Mr. Oliver, who is in Portugal, has been informed by his father of the action of the Department and that it is probable that any further communication from Mr. Oliver will be sent through our legation at Lisbon or directly to the Department of State.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 212.]

Mr. Sherman to Mr. Lincoln.

CONSULATE OF THE UNITED STATES,
Liverpool, April 8, 1890.

SIR: I have to acknowledge the receipt of your letter of March 31, with a copy of the Department's No. 215, in relation to Mr. Samuel B. Oliver's recent application for a passport, by which it appears that, while approving the views expressed in your letter of February 14 last to me, the Department reserves its decision in the case and will consider any further statement that Mr. Oliver may make concerning his departure from the United States and residence abroad.

Mr. Oliver being now in Portugal, I have communicated this information to his father, who resides here, and who will advise the applicant to make such further statement, if at all, through the legation at Lisbon or directly to the Department.

I have, etc.,

THOS. H. SHERMAN,
Consul.

Mr. Lincoln to Mr. Blaine.

No. 213.]

LEGATION OF THE UNITED STATES,
London, April 9, 1890. (Received April 21.)

SIR: I have the honor to acquaint you that Mr. H. C. Quinby, a resident of Liverpool, has recently written to this legation asking for a copy of the instructions relating to passports for the expressed purpose of

writing "a statement of the case to one of the Boston papers," the case being the refusal to issue a passport to him on account of his declining to fill up in a satisfactory manner the blank in the prescribed application relating to a prospective return to the United States and resumption of the duties of citizenship there. Mr. Quinby has been informed that it is supposed that he wishes to have a blank application such as was shown him when here, and that, while it would be sent to him with pleasure if asked for with a view to applying for a passport or to writing to the Department of State, I do not consider it proper to send him an official blank from this legation to be used for the sole purpose of writing to a newspaper, as stated by him.

This correspondence has recalled to my attention the subject of Mr. Quinby's personal application for a passport made at this legation on March 1 ultimo, and which, although at once made known to me, failed to be reported to you in consequence of my absorbing preoccupation at that time.

It had been reported to me that Mr. Quinby had said at Liverpool that he proposed "to make a case," in consequence of the refusal of this legation to issue a passport to Mr. Samuel B. Oliver, as reported to you in my dispatch No. 184 of the 19th of February last; and when, upon visiting the legation for the purpose, he was furnished by Mr. McCormick with the prescribed blank form of application for a native-born citizen, he at once objected, as I am told, to being required to fill up the blank in respect to his return to the United States. The conversation which thereupon ensued with Mr. McCormick is summarized in the memorandum, of which a copy is inclosed, which Mr. McCormick made at once upon Mr. Quinby's departure.

Upon the matter being reported to me, I considered there could be no doubt of the propriety of the refusal by this legation to issue a passport to an applicant who, having been domiciled continuously in England for 39 years, expressed his intention of never returning to the United States to resume the duties of citizenship there, and approved the action of Mr. McCormick.

Trusting that it will also meet your approval,
I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 213.]

Statement regarding application for passport of Mr. Quinby, of Liverpool, dentist.

LEGATION OF THE UNITED STATES,
London, March 1, 1890.

Mr. Quinby said that he left the United States in 1851, taking up his residence in England; that he still had property in the States on which he paid taxes; and that he never expected to return to resume the duties of citizenship. When I told him that with that statement I could not issue a passport to him, he said, with some asperity, that he supposed he would have to become naturalized as an English citizen.

ROBERT S. MCCORMICK,
Second Secretary of Legation.

Mr. Blaine to Mr. Lincoln.

No. 233.]

DEPARTMENT OF STATE,
Washington, April 10, 1890.

SIR: Your dispatch No. 203 of the 28th ultimo, concerning the inconvenience to which Mr. Louis Wagner has been subjected by a paper

in the nature of a passport issued to him by the governor of Minnesota, has been received and brought to the attention of that officer.

Inclosing for your information copies of correspondence relative to a similar case at Vienna,

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1 in No. 233.]

Mr. Grant to Mr. Blaine.

No. 47.]

UNITED STATES LEGATION,
Vienna, December 6, 1889. (Received December 23.)

SIR: With reference to my dispatches Nos. 32 and 46, dated, respectively, October 5 and December 4, 1889, relative to the issuance of passports at this legation, I have the honor to invite your attention to the following occurrence:

On the morning of the 2d instant one John Jagger called at this legation, and, presenting to me a printed paper, of which the inclosed is a copy, asked me "to indorse on the back of it whatever might be necessary to enable him to visit Constantinople." After examining the paper in question, I explained to Mr. Jagger that it was not a passport, and that this legation could not give to it, by any official indorsement, an effect which would enable him, by virtue thereof, to proceed unimpeded into the territory of the Ottoman Empire.

Mr. Jagger seemed surprised to hear this and remarked that he had intended to get a passport at Washington, but that his friends in St. Paul told him the governor of Minnesota would give him a paper which would answer the same purpose, and that he had therefore applied for and received the paper above adverted to.

While this certificate of the governor of Minnesota does not purport to be a passport, it appears to me to be susceptible of criticism as an "instrument in the nature of a passport," the issuance of which by any person "acting or claiming to act in any office or capacity under the United States or any of the States of the United States who shall not be lawfully authorized so to do" is prohibited by the laws of the United States, as set forth in paragraph 121 of the Personal Instructions to the Diplomatic Agents of the United States.

I am convinced from my conversation with Mr. Jagger that he believed himself to be provided, in this paper, with all the evidence necessary to establish his right to consideration as an American citizen, and that his only object in coming to me was to have the paper viséed.

The matter is accordingly submitted to you for your information.

Occasion is taken to add that I was unable to accede to Mr. Jagger's subsequent request for a passport from this legation, inasmuch as it was ascertained upon inquiry that, although he had emigrated to the United States while a minor with his father, who was naturalized as an American citizen during his (John Jagger's) minority, no evidence of such naturalization of the father could be produced before me by the son.

I have, etc.,

F. D. GRANT.

[Inclosure in No. 47.]

Certificate of the governor of Minnesota.

STATE OF MINNESOTA,
Executive (coat of arms, State of Minnesota) Department.

To whom it may concern:

The bearer hereof, John Jagger, is a worthy and respected citizen of this State, a resident of St. Paul, county of Ramsey, State of Minnesota, United States of America.

He is now about leaving his home to travel in Europe, and I cordially bespeak for him the kind attention of all to whom these presents may come.

In witness whereof I have hereunto set my hand and caused the great seal of the State to be affixed, at St. Paul, this 4th day of October, A. D. 1889.

By the governor.

[SEAL.]

WILLIAM R. MERRIAM,
Governor.

H. MATTSON,
Secretary of State.

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[Inclosure 2 in No. 233.]

*Mr. Blaine to Governor Merriam.*DEPARTMENT OF STATE,
Washington, December 30, 1889.

SIR: I have the honor to inform you that our minister at Vienna, in a recent dispatch, reports to this Department that on the 2d instant one John Jagger presented at the legation a paper,* a copy of which is inclosed, with a request that it might be so indorsed as to enable the holder to visit Constantinople. The minister, after examining the paper in question, explained to Mr. Jagger that it was not a passport, and that the legation could not lawfully give to it, by any official indorsement, an effect which would enable him by virtue thereof to proceed unmolested into the territory of the Ottoman Empire.

Mr. Jagger expressed his surprise to hear this and remarked to the minister that he had intended to get a passport at Washington, but that his friends in St. Paul told him that the governor of Minnesota would give him a paper which would answer the same purpose, and that he had therefore applied for and received the paper above adverted to.

I have the honor to bring this matter to your attention for the reason that the issuance of the paper in question led the person holding it to suppose that it entitled him to the protection of the Government of the United States as a passport. The law, however, vests the power to issue passports to persons in the United States exclusively in the Secretary of State (see Revised Statutes, U. S., sections 4075 to 4078), and officers of this Government are not at liberty, under the laws, to recognize any papers in the nature of a passport issued by any other authority.

I have, etc.,

JAMES G. BLAINE.

[Inclosure 3 in No. 233.]

*Governor Merriam to Mr. Blaine.*STATE OF MINNESOTA, EXECUTIVE DEPARTMENT,
St. Paul, January 3, 1890. (Received January 6.)

SIR: I beg to acknowledge the receipt of your communication under date of December 30, 1889, with reference to a letter issued by myself under the seal of the State in favor of one John Jagger.

This form of letter was not intended in any sense as a passport, nor is it understood to be such, and, if Mr. Jagger has taken it away with that idea, it arises from some information given him outside of this office.

On my assuming the duties of chief executive I found this form and understand it has been in use here for several years.

I am fully aware that there is no power vested in the executive of a State to issue a form of passport. I have to thank you very kindly, however, for calling attention to the matter. I shall take special occasion in the future to inform those desiring such a letter as we have been issuing, which is simply a certificate of good citizenship, that they will require a passport issued by the proper authorities in Washington.

Yours, respectfully,

WILLIAM R. MERRIAM,
Governor.*Mr. Blaine to Mr. Lincoln.*

No. 237.]

DEPARTMENT OF STATE,
Washington, April 14, 1890.

SIR: The Department has learned with regret from your dispatch No. 197 of the 20th ultimo of the decision of the Government of India that American missionaries in Burmah can not be exempted from tax upon that portion of their salaries which is paid directly to their families in this country.

* See preceding paper.

Requesting you to obtain and transmit hither two additional copies of the printed document which accompanied your dispatch,

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Lincoln.

No. 242.]

DEPARTMENT OF STATE,
Washington, April 18, 1890.

SIR: Referring to your dispatch No. 203 of the 28th ultimo, concerning the paper in the nature of a passport issued by the governor of Minnesota to Mr. Louis Wagner, I transmit to you herewith, for your information, a copy of a letter from the executive of Minnesota on the subject.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 242.]

Governor Merriam to Mr Blaine.

STATE OF MINNESOTA, EXECUTIVE MANSION,
St. Paul, April 11, 1890. (Received April 17.)

SIR: I have the honor to acknowledge the receipt of your communication of the 10th instant, together with the inclosed letter from the Hon. Robert T. Lincoln, United States minister to England, relative to a paper issued by me to one Louis Wagner, recommending him as a worthy and respected citizen of this State.

As stated in a former communication to you on this subject, this form of letter was not intended in any sense as a passport, nor is it understood to be such. It has been the custom of this office for a great many years to issue these letters. The blank form used is one which was in vogue when I came into possession of this office.

I am at a loss to know how Mr. Wagner came to regard this letter other than one of recommendation, as the party who secured it for him was specifically informed that it was not in the nature of a passport.

I am fully aware that the executive has no power to issue passports. These letters were never intended as such, and I regret to learn that they have been the cause of great inconvenience to some of the parties to whom they have been issued.

As a safeguard against any further trouble of this character, I have the honor to inform you that no more of these letters of recommendation will be issued from this department.

Respectfully,

W. R. MERRIAM,
Governor.

Mr. Blaine to Mr. Lincoln.

No. 251.]

DEPARTMENT OF STATE,
Washington, April 30, 1890.

SIR: Your dispatch No. 213 of the 9th instant, in relation to the status of Mr. H. C. Quinby, who claims to be an American citizen, has been received.

The facts appear to be that Mr. Quinby, who is understood to have resided continuously in England for some 39 years past, visited the legation on the 1st ultimo for the purpose of making inquiries in regard to the issuance of a passport to him as a citizen of the United States. The statement of Mr. McCormick, second secretary of the legation, re-

cites that Mr. Quinby "said that he left the United States in 1851, taking up his residence in England; that he still had property in the States on which he paid taxes; and that he never expected to return to resume the duties of citizenship." Upon being told by Mr. McCormick that a passport could not be issued to him upon such a declaration, he declined to fill up the prescribed blank and departed without making application. He has since written to you from Liverpool, where he resides, asking for a copy of the instructions relating to passports, for the express purpose of writing "a statement of the case to one of the Boston papers."

Your reply to Mr. Quinby declining to furnish him with an official blank form to be used for the sole purpose of writing to a newspaper, as stated by him, is, under the circumstances, approved.

The blank forms of applications for passports and the printed instructions to applicants are supplied to our representatives abroad in order that any persons contemplating an application for a passport may be advised of the requirements of the case and enabled to comply therewith. They are in like manner sent out by this Department to all those who ask for them here, in assumption that the inquiry is made in good faith by persons believing themselves entitled to passports and competent to fill up the prescribed forms and instructions, they having been printed in the volume of Foreign Relations for 1888, part II, pp. 1663, 1665. They are in no sense secret, although their official use is restricted to legitimate applicants. The volume in which their text is published will be found at the United States consulate in Liverpool, where Mr. Quinby will be courteously afforded an opportunity to see them if he should so desire.

As to the merits of Mr. Quinby's case, there is nothing officially before the Department on which to rest a decision. He has simply declined to make application for a passport. His refusal to do so is a matter which concerns only himself. This Government does not constrain citizens of the United States, at home or abroad, to apply for or take out passports. It stands ready, under the discretionary power which the statute lodges in the Secretary of State, to issue passports when desired upon satisfactory evidence that the applicant is entitled to protection. It neither compels an American citizen to obtain proof of his citizenship, nor interferes with any voluntary act of his whereby he may in law or fact renounce his allegiance. What Mr. Quinby's actual status may be is only matter of inference. It is not known whether he is a naturalized citizen who has returned to and is continuously residing in the country of his original allegiance or a native citizen who, in the exercise of an indefeasible right, has voluntarily withdrawn himself from the allegiance he possessed by birth. On one point, however, stress may be properly laid. Mr. Quinby's age is not stated, but it appears that his long absence from the United States includes a period during which the resources of the nation were most severely taxed; and there is nothing to show that Mr. Quinby then performed any of the duties of citizenship, either by personal service, by the payment of personal taxes, or by any of the other means by which allegiance to the Government of the United States was exhibited.

The policy of this nation in regarding good citizenship as involving correlative duties of allegiance and obligation of protection has been consistently expressed since the foundation of our Government, and the proposition is too self-evident to require repetition or argument at this late day, especially upon a hypothetical case.

Had Mr. Quinby filled out the blank form offered to him, with a declaration under oath of his intention never to return and bear effective allegiance to the land whose protection he craves, it would have been easy to deal with his application as it deserved in accordance with the facts.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Lincoln.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 1, 1890.

Mr. Lincoln is instructed to use his good offices with Lord Salisbury to bring about the resumption of diplomatic intercourse between Great Britain and Venezuela as a preliminary step toward the settlement of the boundary dispute by arbitration. The joint proposals of Great Britain and the United States toward Portugal which have just been brought about would seem to make the present time propitious for submitting this question to an international arbitration. He is requested to propose to Lord Salisbury, with a view to an accommodation, that informal conference be had in Washington or in London of representatives of the three powers. In such conference the position of the United States is one solely of impartial friendship toward both litigants.

Mr. Lincoln to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, May 5, 1890. (Received 3:45 p. m.)

Mr. Lincoln states that he has presented the Venezuelan question to Lord Salisbury orally as preliminary to a note upon which His Lordship desired to confer with the colonial office. Lord Salisbury suggested that the termination of diplomatic relations was due to the action of Venezuela, and, regarding settlement of the matter, he intimated a doubt of the stability of that Government.

Mr. Lincoln to Mr. Blaine.

No. 229.]

LEGATION OF THE UNITED STATES,
London, May 5, 1890. (Received May 16.)

SIR: In reference to the Venezuela boundary question, I have the honor to acquaint you that, having received on the 2d instant your telegraphic instruction, I had to-day by appointment an interview with the Marquis of Salisbury, as I have informed you by a cablegram. Lord Salisbury listened with attention to my statement, in making which I was careful to keep within the lines of your instruction above mentioned, and, after remarking that the interruption of diplomatic relations was

Venezuela's own act, he said that Her Majesty's Government had not for some time been very keen about attempting a settlement of the dispute in view of their feeling of uncertainty as to the stability of the present Venezuelan Government and the frequency of revolutions in that quarter, but that he would take pleasure in considering the suggestion after consulting the colonial office, to which he would first have to refer it. Upon my saying that in that case, perhaps, he would like me to embody the suggestion in a note, he assented, and accordingly, after leaving him, I sent to the foreign office the note of which a copy is inclosed.

While Lord Salisbury did not intimate what would probably be the nature of his reply, there was certainly nothing unfavorable in his manner of receiving the suggestion; on the contrary, in the course of the conversation he spoke of arbitration in a general way, saying that he thought there was more chance of a satisfactory result and more freedom from complication in the submission of an international question to a juriconsult than to a sovereign power, adding that he had found it so in questions with Germany. If the matter had been entirely new and dissociated from its previous history, I should have felt from his tone that the idea of arbitration in some form to put an end to the boundary dispute was quite agreeable to him.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 229.]

Mr. Lincoln to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, May 5, 1890.

MY LORD: As I had the honor to intimate to Your Lordship verbally to-day, I have been instructed by my Government to tender to Her Majesty's Government the earnest good offices of the United States, with a view to bringing about a resumption of the interrupted diplomatic relations between Her Majesty's Government and that of Venezuela, as a preliminary step toward negotiations for the amicable settlement by arbitration of the long-standing questions respecting the boundary line between Venezuela and British Guiana.

It is now more than 3 years since, at the time when diplomatic relations had just been broken off, Your Lordship stated to my predecessor that Her Majesty's Government were for the time precluded from submitting the questions at issue to the arbitration of any third power, and expressed the continuing hope of a settlement by direct diplomatic negotiation with Venezuela; and the Secretary of State of the United States feels that a propitious time has arrived for endeavoring to promote a settlement of the questions at issue, in view of the emphasis which has just been given to the principle of international arbitration by the joint proposals of Great Britain and the United States to Portugal.

I am accordingly instructed to suggest to Your Lordship that an informal conference of representatives of Great Britain, Venezuela, and the United States be had either in Washington or London, with a view to reaching an understanding on which diplomatic relations between Great Britain and Venezuela may be resumed, the attitude of the United States therein being solely one of impartial friendship towards both parties to the dispute in question.

Renewing the assurance of the great satisfaction which would be felt by my Government in a successful exercise of its good offices in this matter,

I have, etc.,

ROBERT T. LINCOLN.

Mr. Blaine to Mr. Lincoln.

No. 255.]

DEPARTMENT OF STATE,
Washington, May 6, 1890.

SIR: Referring to previous correspondence concerning the Venezuelan boundary question, I transmit to you herewith, for your information, from the minister of Venezuela at this capital on the subject.

I also inclose a copy of my instruction to you by telegraph of the 1st instant to use your good offices with Her Britannic Majesty's minister for foreign affairs to bring about a resumption of diplomatic relations between Great Britain and Venezuela as a preliminary step toward negotiations for arbitrating the boundary question.

The recital contained in Mr. Scruggs's No. 98 of the 25th ultimo shows the embarrassments caused by Gen. Guzman Blanco's abrupt termination of diplomatic relations and the difficulty in the way of effecting negotiations on the basis of the *status quo* or of arbitrating the whole question. It is nevertheless desired that you shall do all you can consistently with our attitude of impartial friendliness to induce some accord between the contestants by which the merits of the controversy may be fairly ascertained and the rights of each party justly confirmed. The neutral position of this Government does not comport with any expression of opinion on the part of this Department as to what those rights are, but it is evident that the shifting footing on which the British boundary question has rested for several years past is an obstacle to such a correct appreciation of the nature and grounds of her claim as would alone warrant the formation of any opinion.

Inclosing for the files of your legation a copy of Senate document No. 226, first session, Fiftieth Congress, which relates to the Venezuelan boundary question,

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Lincoln.

No. 264.]

DEPARTMENT OF STATE,
Washington, May 19, 1890.

SIR: I inclose herewith a copy of a dispatch† from our minister at Caracas concerning the Venezuelan boundary dispute. You will observe that the sketch map which accompanies Mr. Scruggs's dispatch indicates an extreme boundary considerably to the westward of the line claimed in the colonial office list map for 1890 and the two preceding years.

I am, etc.,

JAMES G. BLAINE.

* For inclosures, see under Venezuela.

† For inclosure, see dispatch No. 100 from the United States minister to Venezuela, dated May 3, 1890.

Mr. Blaine to Mr. Lincoln.

No. 267.]

DEPARTMENT OF STATE,
Washington, May 21, 1890.

SIR: Your dispatch No. 229 of the 5th instant, concerning your interview with Lord Salisbury with reference to the resumption of diplomatic relations between Great Britain and Venezuela, has been received.

The substance of your dispatch has been communicated to the Venezuelan minister at this capital and a copy thereof transmitted to our minister at Caracas for his information.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Lincoln.

No. 270.]

DEPARTMENT OF STATE,
Washington, May 26, 1890.

SIR: I transmit to you herewith for your information a translation of a note* from the minister of Venezuela at this capital concerning the Venezuelan boundary question.

The statements of the Venezuelan minister are interesting from the historical point of view, especially in regard to the shifting nature of the British contention; but, as the essential elements of the determination of the problem are matters of record, there should be no difficulty in reaching a just conclusion on the merits, and, in the expectation of such a result, it is proper to refrain from any prejudgment of opinion on the merits of the British contention.

I am, etc.,

JAMES G. BLAINE.

Mr. Lincoln to Mr. Blaine.

No. 249.]

LEGATION OF THE UNITED STATES,
London, May 28, 1890. (Received June 5.)

SIR: Referring to your instruction numbered 255 of the 6th instant and to my dispatch numbered 229 of 5th instant, I have the honor to inclose herewith the copy of a note which I have just received from the Marquis of Salisbury relative to Venezuela in reply to mine of the 5th of this month, a copy of which was forwarded to you in my dispatch above mentioned.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 249.]

The Marquis of Salisbury to Mr. Lincoln.

FOREIGN OFFICE, May 26, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, stating that you had been instructed by your Government to tender to Her Majesty's Government the earnest good offices of the United States, with a view of bringing

* For inclosure see note of May 20, 1890, from the minister from Venezuela.

about a resumption of the interrupted diplomatic relations between Her Majesty's Government and that of Venezuela as a preliminary step towards negotiations for the amicable settlement by arbitration of the long-standing questions respecting the boundary line between Venezuela and British Guiana.

Her Majesty's Government are very sensible of the friendly feelings which have prompted this offer on the part of the United States Government. They are, however, at the present moment in communication with the Venezuelan minister in Paris, who has been authorized to express the desire of his Government for the renewal of diplomatic relations and to discuss the conditions on which it may be effected.

The rupture of relations was, as your Government is aware, the act of Venezuela, and Her Majesty's Government had undoubtedly reason to complain of the manner in which it was effected. But they are quite willing to put this part of the question aside, and their only desire is that the renewal of friendly intercourse should be accompanied by arrangements for the settlement of the several questions at issue.

I have stated to Señor Urbaneja the terms on which Her Majesty's Government consider that such a settlement might be made, and am now awaiting the reply of the Venezuelan Government, to whom he has doubtless communicated my proposals.

Her Majesty's Government would wish to have the opportunity of examining that reply, and ascertaining what prospect it would afford of an adjustment of existing differences, before considering the expediency of having recourse to the good offices of a third party.

I may mention that, in so far as regards the frontier between British Guiana and Venezuela, I have informed Señor Urbaneja of the willingness of Her Majesty's Government to abandon certain portions of the claim which they believe themselves entitled in strict right to make and to submit other portions to arbitration, reserving only that territory as to which they believe their rights admit of no reasonable doubt. If this offer is met by the Venezuelan Government in a corresponding spirit, there should be no insuperable difficulty in arriving at a solution. But public opinion is, unfortunately, much excited on the subject in Venezuela, and the facts of the case are strangely misunderstood.

I have, etc.,

SALISBURY.

Mr. Lincoln to Mr. Blaine.

[Extract.]

No. 267.]

LEGATION OF THE UNITED STATES,
London, June 25, 1890. (Received July 7.)

SIR: I have the honor to acquaint you that, having received on the 20th instant your telegraphic instruction, I requested Señor Pulido to meet me with a view to suggesting his presentation at a time when I could say he was prepared to present to Her Majesty's Government the reply to the recent note to Señor Urbaneja.

Señor Pulido called upon me on Saturday, the 21st instant, and informed me that on the previous day he had formally notified Sir Thomas Sanderson, assistant undersecretary of state for foreign affairs (by whom the note to Señor Urbaneja was signed), of his mission and requested an appointment to present his credentials and the response of Venezuela. He was, however, still desirous that I should arrange to present him to Lord Salisbury, and I accordingly, at an interview yesterday, stated to His Lordship the substance of your instruction. He replied that Señor Pulido was already in negotiation with Sir Thomas Sanderson, but that it would be quite agreeable to have me present Señor Pulido to himself; and it was therefore arranged that I should do so to-day.

In pursuance of the appointment made, I therefore made the presentation to-day. The interview was brief, and the conversation between Lord Salisbury and Señor Pulido referred only in general terms to the pending controversy, the hope being expressed by both in the most courteous manner that some satisfactory arrangement would soon be reached.

With the understanding that Señor Pulido should continue his negotiations with Sir Thomas Sanderson, the interview terminated.

Señor Pulido expressed to me his warm gratification upon my official action with respect to himself.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Lincoln to Mr. Blaine.

No. 276.]

LEGATION OF THE UNITED STATES,

London, July 9, 1890. (Received July 22.)

SIR: Referring to your instruction No. 251 of April 30 last, in relation to the status of Mr. H. C. Quinby (whose name, up to this moment, has, in the body of all papers, including those presented by himself, been spelled Quimby), I have the honor to acquaint you that to-day Mr. Quinby called at the legation to make a formal request for a passport, and, using the same application paper which had been filled up under his direction at Liverpool in February last, with certain changes made upon my suggestion, with his entire concurrence, in order to exhibit the facts of the case with brief precision, he completed an application, of which a copy is inclosed. I thereupon informed him that I did not consider it within my instructions to issue a passport to a citizen of the United States whose domicile, while conducting an entirely local business, had been maintained in England for 34 years, he expressing without reservation the intention of never returning to the United States to resume the duties of citizenship there. In giving him my reasons for the refusal, I was careful to inform him that it involved no expression of opinion on my part as to his status as a citizen of the United States if he should at any time resume his residence therein.

I also informed him that, if he so desired, I would transmit his application to the Department of State; but he declined this and requested permission to take it away with him, for the express purpose of having it presented directly to the Department, instead of through the legation. I acceded to his request, keeping a duplicate original application for the files of the legation.

It is proper to add that our interview was entirely pleasant, his feeling in the matter being well indicated by a letter of his published in the Boston Post of April 23, 1890, of which he was good enough to hand me a copy, herewith inclosed.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in No. 276.]

Native.

No. —, ISSUED —, 18—.

I, Henry Clay Quinby, a native and loyal citizen of the United States, hereby apply to the legation of the United States at London for a passport for myself, accompanied by my wife, Marion Grey Quinby *née* Newell.

I solemnly swear that I was born at Westbrook, in the State of Maine, on or about the 24th day of April, 1831; that my father was a native citizen of the United States; that I am domiciled in England, my present residence being at Liverpool, England, where I follow the occupation of dentist; that I took up my domicile in England in the year 1856, and that upon my last visit I left the United States in July, 1889, and

am now sojourning at Liverpool; that I intend never to return to the United States with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of travel, and that I own taxable property in the State of Minnesota.

Oath of allegiance.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion, so help me God.

H. C. QUINBY.

LEGATION OF THE UNITED STATES AT LONDON.

Sworn to before me, this 9th day of July, 1890.

[SEAL.]

ROBERT T. LINCOLN.

Description of applicant.

Age, 58 years; stature, 5 feet 6½ inches, English; forehead, low; eyes, blue; nose, small, straight; mouth, small; chin, covered with beard; hair, brown gray; complexion, light ruddy; face, round, full.

Identification.

FEBRUARY 13, 1890.

I hereby certify that I know the above-named Henry Clay Quinby personally, and know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

A. G. INGLIS.

I certify that the above identification is satisfactory to me.

[SEAL.]

THOS. H. SHERMAN,
United States Consul.

[Inclosure 2 in No. 276.—Boston Post, Wednesday morning, April 23, 1890.]

THE AMERICAN CITIZEN ABROAD.

To the Editor of the Post:

SIR: I have been under the impression all my life that a man who had been born and educated in the United States and grown up there to early manhood might venture to go abroad and live abroad for any length of time without losing his nationality, unless he chose to do so and by his own act become a subject of some other nation; but it seems that this is not the view taken by the State Department at Washington. I am an American. My ancestors emigrated to New England in 1630, and I have no doubt they had their full share of the struggles and hardships which all those early colonists had to endure, and which made their country dear to them when, surely against their will, they fought for and obtained their independence. I was born in New England, and lived there until some years after I came of age, and then for business purposes I came to England, and, with an occasional visit to the United States, I have lived here since 1856; but, although there have been inducements to do so, I have never made myself a British subject, preferring to retain my citizenship and rights as an American.

A few weeks ago my wife and I proposed a trip to northern Italy by way of Paris, Basle, and the St. Gothard, and, as the Germans in their wisdom have prohibited the crossing of their frontier from France directly into Germany without the production of a passport, it became necessary for me to procure one of those important documents in order to make the journey in that direction. In my ignorance I certainly did not suppose that I should have any other difficulty about obtaining a passport than that of identifying myself. Therefore, in going to the consul to get the necessary papers I took with me a friend who was known at the consulate and who had known me for about 25 years, and, under oath, he vouched for my being the man I represented myself to be. The consul's duty was simply to fill up certain papers stating the place and date of my birth, my height, the color of my hair and eyes, the

shape of my nose, etc.; and then came the question when I proposed to resume residence in the United States. This I could not answer, for how can a man who retains his health and strength say when he will give up his business, or, if doing a good business at 60 years of age, how can he think of making a change which would break it all up? The papers were to go, when filled up, to the legation in London, and the consul warned me that he doubted whether Mr. Lincoln could grant me a passport unless I gave a definite answer to that question; but I thought the point was too absurd to be pressed, and I took the papers to the legation myself, when the first question asked was when I proposed to go back and take up my residence in the United States, and, as I could not answer that, I was told that I could not have the protection of a passport from the United States Government, and there was therefore nothing for it but that, at considerable inconvenience, I must change my route of travel into Italy. In fact, I am denationalized against my will, and I could not have believed that this was the intention of the State Department in Washington if I had not been shown a paragraph in what I suppose was a book of instructions issued by that Department to its officials in foreign countries, which paragraph explicitly forbids the granting of a passport to any man who has any hesitation about stating a definite time when he intends to return to, and take up a permanent residence in, the United States.

I am, sir, your obedient servant,

HENRY CLAY QUINBY.

LIVERPOOL, ENGLAND, *April 9, 1890.*

Mr. Wharton to Mr. Lincoln.

No. 320.]

DEPARTMENT OF STATE,
Washington, July 25, 1890.

SIR: On the 14th of May last the wife of the Rev. J. N. Wright, at Salmas, Western Persia, was assassinated by an Armenian named Minas, who had been employed as a teacher in the mission. The crime was brought to the knowledge of our minister by a telegram from Colonel Stewart, the British consul-general at Tabriz, to Sir Henry Drummond Wolff, the British minister.

• Owing to the active and efficient exertions of Colonel Stewart, acting under instructions from the British minister, who promptly tendered his aid in the matter, the assassin was arrested and committed to prison. I inclose for your information some extracts from Mr. Pratt's dispatches* relative to the subject.

You are instructed to express to the foreign office the Department's high appreciation of the very valuable services which the above-named officers rendered in securing the arrest of the criminal and to request that the thanks of this Government may be conveyed to them through the proper channel.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Mr. Lincoln.

No. 350.]

DEPARTMENT OF STATE,
Washington, September 2, 1890.

SIR: With his dispatch No. 638, of December 10, 1887, Mr. Phelps inclosed to the Department triplicate printed copies of a memorandum of Sir Robert Stout, governor of New Zealand, on the subject of the

* For inclosures, see dispatches No. 456 of May 24, and No. 459 of June 3, 1890, from United States minister to Persia.

claims of Mr. William Webster, a citizen of the United States, to lands in that colony. In that memorandum Sir Robert Stout reviews the history of the claims and makes an extended reply to a report of the Committee on Foreign Relations of the Senate of the United States, who have for some time had the subject under consideration. The committee were furnished with a copy of that reply and gave it careful consideration. The result of that consideration is that on the 11th of June last the chairman of the committee, by their direction, advised the President of the adoption by the committee of the following resolution :

Resolved, That the papers in the case of William Webster be transmitted to the President, with the statement that the committee respectfully recommend this matter to his attention, with the accompanying papers, as a claim that is worthy of consideration, and with the request that it be made the subject of further negotiation with the Government of Great Britain.

The Department has made the matter the subject of careful examination, with a desire to arrive at a just determination, and finds itself unable to accept the conclusions stated in Sir Robert Stout's memorandum. The reasons why it is unable to accept those conclusions are set forth in a memorandum which accompanies this instruction and of which you are directed to furnish copies for the consideration of Her Britannic Majesty's Government.

It is believed that Her Majesty's Government, upon a perusal of this document, will find that the conclusions stated in the memorandum of the governor of New Zealand and the arguments and allegations, some of them injurious to the claimant, by which those conclusions are reached, are not justified by the facts as disclosed in the documents furnished by the governor.

It is hoped that a way may be found, by friendly consultation between the two Governments, to afford Mr. Webster the fair and impartial disposition of his claims to which it is thought that he is entitled.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure in No. 350.]

CLAIM OF WILLIAM WEBSTER AGAINST GREAT BRITAIN.

Origin of Mr. Webster's claims.

William Webster, when quite a young man, went to New Zealand with a capital of \$6,000 invested in general merchandise suited to trade with the native population. Being of an enterprising disposition, he rapidly extended the scope of his business. He learned the language of the people, cultivated friendly relations, and traded with them. He purchased lands and established trading stations, not only for the sale of merchandise, but also for the sale of timber and other products of the lands which he had purchased. He was one of the pioneers of civilization in that country. He had no connection with the Government of the United States other than that of citizenship, and nothing to rely upon but his own energy and resources and such assistance as he could privately obtain. From 1835 to 1840 Mr. Webster had, as he states, invested in lands in New Zealand, in the form of cash and of merchandise, about \$78,000, and had acquired by deed from the native chiefs in all about 500,000 acres of land.

Annexation of New Zealand by Great Britain.

On January 30, 1840, William Hobson, a captain in the British Navy, issued a proclamation as lieutenant-governor of the British settlement in progress in New Zealand, declaring the extension of the former boundaries of New South Wales so as to comprehend any part of New Zealand that had been or might be acquired in sovereignty by

Her Britannic Majesty. On the same day he issued another proclamation, by which it was declared that Her Majesty did not deem it expedient to recognize as valid any titles to land in New Zealand which were not derived from or confirmed by Her Majesty. But, said the proclamation, in order to dispel any apprehension that it was intended to dispossess the owners of land "acquired on equitable conditions, and not in extent or otherwise prejudicial to the present or prospective interests of the community," Her Majesty had directed that a commission should be appointed, before which all claims to land would have to be proved.

On the 6th of February, 1840, a week after the issuance of these proclamations, Governor Hobson, on the part of her Britannic Majesty, concluded with the native chiefs the treaty of Waitangi, by which, for the sole consideration of being made subject to the British Crown, they ceded their sovereignty and powers. Nevertheless, the treaty confirmed and guaranteed to the "chiefs and tribes of New Zealand, and to the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession." The only qualification of this confirmation and guaranty of title is the cession to Her Majesty of a right of preëmption of such lands as the native proprietors might, at any time, be disposed to alienate. This was only a further recognition of the title of the native chiefs, from whom Mr. Webster's titles were also derived prior to the date of the treaty. It is therefore unnecessary to argue that the title of Mr. Webster was equal in origin with that of the British Crown, and, being prior in time, was superior in right and could not be affected either by the proclamations of Governor Hobson or by the treaty of Waitangi.

Position of Mr. Webster after annexation.

The position in which Mr. Webster found himself after the proclamations of Governor Hobson is very simply, but not the less forcibly, stated in a letter to J. H. Williams, esq., United States consul at Sydney, New South Wales, dated November 4, 1840. In this letter Mr. Webster said:

"No doubt you are aware that the British Government have taken possession of some parts of these islands and have issued proclamations and other notifications that all titles to land acquired from the native chiefs are to be sent to the colonial secretary's office at Sydney to be examined. I suppose they intend to allow whatever portion of land they may think proper. I beg to call your attention to know what all Americans in this island are to do with the large quantity of land they have purchased.

"No doubt you are aware that a great part of the oil taken by American ships is caught on this coast, and I can safely say that there are ten American ships come into these ports to recruit to one ship of any other nation. I beg to acquaint you of the valuable lands I have purchased from independent chiefs of this place, and beg you will make it known to the American Government as early as possible. The land purchased by me and the amount paid for it is as follows:

Paid for Barrier Island, in March, 1837, and the title deeds, signed by thirty-six independent chiefs, giving up all right and title to the same, cash and merchandise	£1, 200
Paid for part of the island of Waiheke, in 1836	558
Paid for land at Coromandel Harbor, in 1836	1, 000
Paid for Mercury Island, in 1838	944
Paid for land at Point Rodney, in 1838	490
Paid for land on banks of River Thames, 1836	250
Paid for land on banks of River Waiemata, 1837	280
Paid for Bay of Plenty, 1839	450
Paid for River Piako, 1839	1, 375
Amount expended in building and other improvements from 1835 to 1840	9, 060

Total 15, 607
 Equal to about \$78,145.

"You will see by the copy of the title deeds that I have expended equal to \$78,145, for which I have bought about 500,000 acres of land, and, to the best of my knowledge, there has been about 1,000,000 acres purchased in these islands by citizens of the United States, and for which they have expended about £50,000 sterling, besides several years' labor and running great risks where the natives were not civilized. They (the British Government) have already put me to a loss of £6,000 sterling by their acts. They have not taken any of my land as yet, but I expect they will take all from me and every other American, unless our Government will take it in hand to stop it. I trust you will make this known to the United States Government as early as possible, so that all Americans may know how to act in this case."

British ordinances.

Prior to the date of this letter an act was passed in New South Wales for the purpose of creating a commission "to examine and report on claims to grants of land in New Zealand," and it was doubtless the passage of this act that gave rise to the reports to which Mr. Webster adverted in his letter. Subsequently this act became inoperative by reason of the severance of New Zealand from New South Wales, and on June 9, 1841, an ordinance, which was virtually a transcript of the New South Wales act, was passed in New Zealand by the governor and his council. This ordinance and the prior act, both of which were drawn in conformity with instructions of the Home Government, declared:

"All titles to land in the said colony of New Zealand which are held or claimed by virtue of purchases or pretended purchases, gifts or pretended gifts, conveyances or pretended conveyances, leases or pretended leases, agreements, or other titles, either mediately or immediately, from the chiefs or other individuals or individual of the aboriginal tribes inhabiting the said colony, and which are not or may not be hereafter allowed by Her Majesty, her heirs, and successors, are, and the same shall be absolutely null and void."

It was further provided that no grant of land should be recommended by the commissioners under the ordinance which should exceed in extent 2,560 acres, unless they were specially authorized thereto by the governor, with the advice of the executive council, or which should comprehend any headland, promontory, bay, or island that might be required for the purpose of defense, or for the site of any town or village, reserve, or for any other purpose of public utility, nor of any land situate on the seashore within 100 feet of high-water mark. And it was further provided that nothing in the ordinance should oblige the governor to make and deliver any grant unless His Excellency should deem it proper to do so. There was also a provision that the commissioners should not recommend any grant whatever of any land which, in the opinion of a majority of them, might be required for the site of any town or village, etc.

Orders respecting foreigners.

By an order of the lieutenant-governor of New Zealand, dated February 9, 1841, it was directed that all persons not the subjects of Her Majesty who had purchased land from the aborigines previous to January 30, 1840, should forward a copy of their claims to the colonial secretary's office at Auckland on or before June 1, 1841.

In the New Zealand Gazette of October 20, 1841, there was published another order of the governor, in which it was stated "for the information of foreigners claiming land in New Zealand by purchase from the natives prior to the proclamation issued by His Excellency Sir George Gipps bearing date the 14th day of January, 1840, that by a dispatch from the right honorable Her Majesty's principal secretary of state for the colonies, it is ordered that all claims, whether British or foreign, be investigated and disposed of by the commissioners appointed for that purpose."

The order continued as follows:

"Such foreigners, therefore, as have not already forwarded the particulars of their claims to this Government are required to send them to this office without delay. These particulars should set forth the precise situation of the land claimed, its extent and boundaries, the names of the native sellers, and the consideration paid to them, and, in case of the claims being derivative, the name of the intermediate possessors of the land and of the original purchaser and the consideration given by him to the natives."

Submission of Mr. Webster's claims.

On the 20th of July, 1841, being thus expressly required to do so, Mr. Webster sent seven copies of titles to land and seven statements of purchases to the colonial secretary of New Zealand, with a request that they be laid before the commissioners for examination only. At the same time he said:

"I have sent all my claims to land in this country before the United States Government, by the advice of the American consul of Sydney, and I trust His Excellency Governor Hobson will not suffer any of my lands to be interfered with until the question is settled. I have been a resident of New Zealand for 7 years, and have expended a large sum of money and undergone a great deal of trouble and hardships.

"I am willing to come forward and prove all my purchases, but I trust that I shall be allowed time to do it, for I am very busy now with ships, and am under heavy penalties for the fulfillment of my agreements, and I find it will take a long time to get all the natives and witnesses to my purchases of lands together, and the expense will be very great. I find myself already at a great loss, and it appears to me that

I am to be put to much more, and I do not know who to look to for it. I trust when my claims for purchases to land (in this country) are examined that they will prove to be all well understood by them that hear them; and it was all bought before that any government was formed here; and I further consider that all I have has been dearly earned, and I trust that, before I am dispossessed of any of it, it will be proved who has the best right to it.

"Hoping that I have not made any unjust remarks, I have, etc.,

"WM. WEBSTER."

In reply to this letter, Mr. Webster received a communication from the colonial secretary dated August 7, 1841, which is as follows:

"COLONIAL SECRETARY'S OFFICE,

"Auckland, August 7, 1841.

"SIR: I have had the honor to receive and lay before His Excellency the governor your letter of the 20th ultimo, transmitting copies of titles of claims to land in New Zealand, and am instructed to acquaint you that you must distinctly state whether you claim the land as a British or American subject. If the former, your case will take the course the law prescribes; if the latter, your claims must depend upon the decision which may be arrived at by the joint consent of both governments. The governor further directs me to inform you that in seeking assistance from a foreign government you must relinquish all the rights of a British subject, such as the ownership of a British vessel, which you are now understood to possess; but, if the claims be lodged as a British subject, His Excellency will consent to their being laid before the commissioners in the usual way.

"I have, etc.,

"WILLOUGHBY SHORTLAND.

"MR. WILLIAM WEBSTER,
"Coromandel Harbor."

On the 3d of October, 1841, Mr. Webster sent the following answer:

"COROMANDEL HARBOR, October 3, 1841.

"SIR: In reply to yours concerning my claims to land, I wish my claims to be laid before the commissioners, and am willing to take my chance with all others. But I trust that they may be left until the last, for it will put me to a serious inconvenience to attend to them now.

"I have, etc.,

"WM. WEBSTER."

It is stated in the memorandum of Sir Robert Stont that upon the cases submitted by Mr. Webster there were made the following entries:

MEMORANDUM FOR THE GOVERNOR.

"The information furnished regarding these claims is sufficiently full to enable them to be referred for investigation. It appears from Mr. Webster's letter of July that these are only a part of his claims—he mentions twenty-seven as the total number—but states that the documents referring to the other claims are mislaid.

"WILLOUGHBY SHORTLAND.

"OCTOBER 30.

MINUTE BY GOVERNOR.

"Let Mr. Webster's claims be submitted in the usual way.

"W. HOBSON.

"NOVEMBER, 2, 1841."

On the strength of these communications the memorandum of Sir Robert Stont contains the following assertions:

"From the foregoing correspondence no other inference can be drawn but that Mr. Webster intended to have his claims heard as those of a British subject; and,

"Firstly. That the governor so interpreted his intention is apparent from the minute of the 2d of November, 1841, where, in directing Mr. Webster's claims to be submitted in the usual way, he adopts the course and uses the identical language which the colonial secretary, in his letter of the 7th of August, informs Mr. Webster would be adopted if he advanced his claims as a British subject.

"Secondly. Mr. Webster, in his reply of the 3d of October, where he expresses his wish that his claims should be laid before the commissioners, requests that very course to be adopted which the colonial secretary informed him would be adopted if he advanced his claims as a British subject.

"Thirdly. Mr. Webster appeared before the commissioner's court and gave his evidence on oath in respect of each claim, without protest, after his claims had been notified in the usual way, and never asserted any exceptional claim as an American

citizen; and, also, he accepted the awards in each claim and the Crown grants issued in virtue of the said awards.

"Fourthly. Mr. Webster did not relinquish the rights of a British subject, such as the ownership of a British vessel which he possessed, and which, in the aforesaid letter of the colonial secretary, he was informed he would be required to do if he advanced his claims as a foreigner.

"It is to be especially noted here that, although Mr. Webster's letter of the 20th of July, 1841, to the colonial secretary, wherein he advances his claims as an American citizen, has been submitted to the Senate of the United States and is referred to in the report of the committee of the Senate (post page 41), yet no evidence appears of Mr. Webster having submitted to the Senate either the colonial secretary's letter of the 7th of August or his own reply thereto of the 3d of October, 1841. From this surprising omission I can not but conclude that it was an act of willful disingenuousness on Mr. Webster's part, done for the purpose of suppressing all evidence which might be adduced to prove that he advanced his claims before the land claims commissioners as a British subject and not as an American citizen."

It is not thought to be necessary now to consider so much of the above-quoted passage as makes against Mr. Webster a charge of "willful disingenuousness" and suppression of evidence. On his part, Mr. Webster vehemently denies that some of the documents which accompany Sir Robert Stout's memorandum, apparently as contemporaneous records of the investigation of the land claims, possess that character. Mr. Webster asserts that he left Coromandel Harbor on June 23, 1843, when the examination of his cases was concluded, and never afterwards saw any commission then or afterwards appointed, and that all proceedings subsequent to that date in respect to his titles were *ex parte* and without notice to him and without his knowledge. In respect to some of the proceedings that appear to have taken place in and after June, 1843, before Commissioner Godfrey, Mr. Webster points, in confirmation of his statement, to the following passage in Sir Robert Stout's memorandum:

"The first commission concluded its labors by reporting on all the claims referred to it. Major Richmond, on the 8th of March, 1844, was appointed superintendent of the southern division of New Zealand, and Colonel Godfrey returned to England."

Just after this the following statement is also noted:

"In the year 1844 an ordinance in amendment of the above-recited ordinance was passed giving to a single person the powers granted to two commissioners under the ordinance of 1841. This was called 'the land claims ordinance, 1844, session III, No. 3;' and Mr. Robert Appleyard Fitz Gerald being appointed, on the 25th of March, 1844, sole commissioner thereunder, he formed what is herein called the second commission."

In the memorandum of Sir Robert Stout there are found seventeen or eighteen pieces of evidence which purport to have been "taken in court" before Commissioner Godfrey from May to August, 1844. It is found that the amended and last report of Commissioners Richmond and Godfrey bears date December 18, 1843. Their recommendations were referred to the second commission, consisting of Mr. Fitz Gerald, on April 10, 1844, and the report of Commissioner Fitz Gerald, which is said to have been adopted, bears date April 22, 1844.

The charge of suppression of evidence made against Mr. Webster in respect to the submission of his claims to the land commission adds force to the impression that the answer to his claims made in the memorandum of Sir Robert Stout is chiefly based upon the ground that Mr. Webster sought to be, and was, treated as a British subject. In the passage above quoted from the memorandum four reasons are set forth to sustain that pretension. In respect to these it is to be observed—

(1) That the notice issued to claimants required foreigners, as well as British subjects, to present their claims to the commission.

(2) That the commissioners did not possess power to make grants, but only to investigate claims and make reports and recommendations to the governor.

(3) That the letter of Mr. Webster of July 20, 1841, in which he submitted seven titles for examination, clearly and unmistakably asserted his American citizenship.

(4) That the reply of the colonial secretary of August 7, 1841, intimating that Mr. Webster's claims would not be considered so long as he should seek the protection of his Government, was inconsistent with the notice previously issued to claimants and not warranted by the scope and functions of the commission.

(5) That Mr. Webster's statement in his letter of October 3, 1841, that he was "willing to take his (my) chances with all others" was not a renunciation of his American citizenship nor an assumption of a British citizenship.

(6) That there is no evidence whatever to show that Mr. Webster was ever supposed to be a British subject, nor is it asserted that he ever performed any act by which he could be held to have assumed that character.

(7) That the statement in the colonial secretary's letter of the 7th of August, 1841, that Mr. Webster was "understood to possess" a British vessel is not an allegation that he did own such a vessel, and that no evidence whatever is adduced to show that the statement had any other foundation than rumor of the vaguest character.

No authority is given for the statement; neither name nor description of the vessel is afforded. Mr. Webster denies that he owned such a vessel, and there is no apparent reason to question his denial.

(8) That, if it had been true that Mr. Webster owned a British vessel, no law of Great Britain is known by which such ownership would have been tantamount to an act of naturalization.

(9) That, no evidence being adduced to show that Mr. Webster owned a British vessel, the inference sought to be drawn from the assertion that he "did not relinquish the right of a British subject, such as the ownership of a British vessel which he possessed," must be treated as wholly without justification.

(10) That the letter of the colonial secretary of August 7, 1841, may be regarded as conclusive evidence that Mr. Webster had not been naturalized as a British subject.

(11) That that letter was inconsistent with the instructions given to the colonial authorities, as disclosed by the note of Lord Aberdeen to Mr. Everett of February 10, 1844, which says:

"Having now received an answer from the colonial department, the undersigned has the honor to inform Mr. Everett, with reference to the first head of complaint, that, in consequence of certain questions raised by the American consul at Sydney as to the rights and obligations of aliens in New Zealand, instructions were forwarded to the governor of that island in the month of March, 1841, upon which occasion that officer was directed to bear in mind the principle that where aliens had acquired land from the chiefs prior to the proclamation of the Queen's sovereignty there, and that fact was undisputed, the claims should be acknowledged; but that where a doubt arose whether the alien made a bona fide purchase of the land the settler should be treated as any British subject and his claim disposed of accordingly."

(12) That the argument that Mr. Webster elected to be a British subject and to renounce his rights as an American citizen is not sustained by the facts and is unwarranted by the law.

The anxiety exhibited on this subject and the ingenuity in argument in regard to it in the memorandum of Sir Robert Stout are amply justified by a review of the

Treatment of Mr. Webster's claims.

Taking the proceedings of the first commission, as set forth in the memorandum, we have the following in respect to Mr. Webster's claims:

Case No. 305.—Two hundred and fifty acres; conveyance by natives; consideration, merchandise to value of £203. Report: Bona fide; consideration (goods), £114 12s.; Sydney prices, £343 16s.

305 A.—Six hundred acres; deed; consideration (merchandise and cash), £260. Report: Bona fide; 250 acres; consideration (goods), £94 14s. 6d.; Sydney prices, £284 2s. 6d.

305 B.—Fifteen hundred acres; deed; merchandise, £90. Report: Bona fide; goods, £71 18s. 6d.; Sydney prices, £215 5s. 6d.

305 C.—Twenty-five hundred acres; deed; merchandise, £203. Report: Bona fide; 800 acres; goods, £89 10s.; Sydney prices, £268 10s.

305 D, 305 E, 305 F, 305 L.—These are alleged to have been withdrawn, and no report appears on them. They comprise 4,000 acres of land and two islands whose area is not stated; and consideration, in cash and merchandise, for the whole is claimed to have been paid to the amount of £1,820.

305 G.—Boundaries stated, but not contents; deed; merchandise, £490. Report: Bona fide; 10,000 acres; goods, £140 8s.; Sydney prices, £421 4s.

305 H.—Three thousand acres; deed; merchandise, £450. Report: Not purchased from rightful owners.

305 I.—Three thousand acres; deed; merchandise, £108 1s. Report: Bona fide; 3,000 acres; cash, £15; goods, £62 12s.; Sydney prices, £202 16s.

305 J.—Six thousand acres; deed; merchandise, £944. Report: Bona fide; acreage not known; cash and goods, £278; Sydney prices, £834.

305 K.—Eighty thousand acres; deed; cash and merchandise, £1,195. Report: Bona fide; 80,000 acres; cash, £35; goods, £563 16s.; Sydney prices, £1,691 1s. Total, £1,726 8s.

305 M.—Two thousand acres; deed; merchandise, £108. Report: Bona fide, 3,500 acres; cash and goods, £80.

32.—Twenty thousand acres; deed; merchandise, £1,140. Report: Bona fide; cash and goods, £580 15s.; boundaries, but not contents, stated.

The report of the first commission covers fourteen claims. In respect to eight of these (305, 305 A, 305 B, 305 C, 305 G, 305 I, 305 K, 305 M) the commission found that Mr. Webster had purchased in good faith 108,300 acres. In respect to these same tracts, his claims amounted to 118,850 acres. The commission also found that he had paid for them in cash and goods £1,167 10s. 12d., or, in Sydney prices, about £3,427 6s.

Four cases (305 D, 305 E, 305 F, and 305 L) Mr. Webster is alleged to have withdrawn, as he asserts, erroneously. These four comprise 4,000 acres and two islands

whose area is not stated. The consideration alleged to have been paid is £1,820. In case 305 H, containing a claim for 3,000 acres (consideration £450), the commission reported that the claimant had not purchased from the rightful owners.

By their amended report of December 18, 1843, the commissioners recommended the following allowances: In case 305, 240 acres; 305 B, 550 acres; 305 C, 800 acres; 305 G, 1,944 acres; 305 I, 1,187 acres; 305 K, 2,560 acres; total, 7,281 acres, "to be reduced in the aggregate to the maximum grant of 2,560 acres," in accordance with the land ordinance, which forbade a grant of greater extent. But no grants were made upon these recommendations.

In 1844, as above shown, an amendatory ordinance was passed constituting a commission of one person. In April, 1844, the governor brought before the council the awards recommended by Commissioners Godfrey and Richmond in cases 305, 305 A, 305 B, 305 C, 305 G, 305 I, and 305 K, amounting to 7,541 acres; and, upon the advice of the council that the commissioners should be authorized to recommend an extension of the grant, all the awards were referred to the second commission, with instructions to extend the grant.

The second commission, consisting of Mr. Fitz Gerald, reported as follows:

"I do most conscientiously recommend for His Excellency's approval that grants be issued to the under-mentioned parties, upon a letter of authority to that effect from Mr. Webster:

	Acres.
Claim No. 305, William Webster	125
Claim No. 305 A, William Webster	125
Claim No. 305 C, William Webster	400
Claim No. 305 G, William Webster	1,944
Claim No. 305 I, William Webster	1,187
Claim No. 305 K, William Webster	1,219
Claim No. 305 B, David E. Mupro	550
Claim No. 305, Henry Downing	125
Claim No. 305 C, Henry Downing	400
Claim No. 305 K, Henry Downing	320
Claim No. 305 A, Peter Abercrombie	125
Claim No. 305 K, Peter Abercrombie (one-eighth of his purchase from Webster)	5,000
Claim No. 305 K, Felton Mathew (one-quarter of his purchase from Webster) ..	2,560
Claim No. 305 K, John Johnson (one-quarter of his purchase from Webster) ..	1,280
Claim No. 305 K, Vincent Wanostrocht (one-quarter of his purchase from Webster)	250
Claim No. 305 K, John Wrenn and Jeremiah Nagle (one-quarter of their purchase from Webster)	150
Claim No. 305 K, Arthur Devilin (one-quarter of his purchase from Webster) ..	1,255
Claim No. 305 K, George Russell	640

Amounting in the aggregate to..... 17,655

"ROBT. J. FITZGERALD,
"Commissioner.

"LAND OFFICE, Auckland, April 22, 1844."

Upon this report the memorandum of Sir Robert Stout contains the following comment:

"It must ever remain a mystery how Mr. Commissioner Fitz Gerald could have made such recommendation."

It is thought that this mystery is completely solved by the commissioner himself in the memorandum which he made of the reasons for his action, and which is found in the report of Sir Robert Stout, as follows:

MEMORANDUM BY MR. COMMISSIONER FITZ GERALD.

"Reasons for extending a grant of land to Mr. William Webster:

"(1) By the accompanying synopsis of the land claims of Mr. Webster it appears that his outlay amounts to £7,787 13s., which, according to the valuation scale in the land claims ordinance, he may be considered as having paid for 50,904 acres; and, even limiting his outlay to the mere payments to the natives, he would be fairly entitled to 17,950 acres.

"(2) Considerable sales of land having been made by him on the faith of all his valid purchases being recognized by the Crown.

"(3) Should he not be enabled, by great liberality on the part of His Excellency, to meet his engagements, even partially, he is likely to be overwhelmed with lawsuits and subjected to great losses.

"(4) Mr. Webster is one of the most enterprising settlers in this colony, having established a shipbuilding yard, several whaling stations, water mill, and other improvements.

"For these reasons I do most conscientiously recommend for His Excellency's approval that grants be issued to the under-mentioned parties, upon a letter of authority to that effect from Mr. Webster."

In view of these reasons, which the memorandum of Sir Robert Stout criticises, but does not in any respect invalidate, it is not perceived why "mystery" should have been attributed to the recommendation of Mr. Commissioner Fitz Gerald. If the reasons stated by that official for his recommendation were not so obviously just and true, it is thought that the adoption, as stated in Sir Robert Stout's memorandum, of that recommendation by the authorities at that time would sufficiently divest it of mystery and demonstrate its propriety. Still more completely does the "mystery" vanish when it is recollected, as hereinbefore pointed out, that it appears by the documents contained in Sir Robert Stout's memorandum that the reference of the awards of the first commission in the cases of Mr. Webster to the second commission, consisting of Mr. Commissioner Fitz Gerald was "with an instruction to recommend an extension of the grants."

In the memorandum of Sir Robert Stout it is stated that Governor Fitzroy adopted the recommendations of Commissioner Fitz Gerald and on May 1, 1844, issued grants in accordance with them. It is not asserted that Mr. Webster ever gave the "letter of authority" which the recommendation of Commissioner Fitz Gerald assumed to be necessary. But the memorandum of Sir Robert Stout contains the following statement:

"Webster received his grants for 5,000 acres, and within less than 4 months had transferred the whole of these lands to his creditors, besides the 12,655 acres granted directly to them, leaving himself without an acre of all his purchase and still a debtor to the Sydney merchants."

And this statement is made the text of animadversions upon the speculative character of Mr. Webster's dealings.

This may be regarded as somewhat remarkable, when both the first and the second commission found that Mr. Webster had made bona fide purchases for value before the annexation of the island by Great Britain of more than 105,000 acres of land, exclusive of various large tracts upon which they did not report; when it is also considered that Mr. Webster was, by universal testimony, an industrious and meritorious settler, and when it is further observed that his conduct throughout shows that he was making every effort to deal honorably with his creditors at a time when the annexation of the islands and the ensuing land ordinances were threatening him with the commercial disaster in which they had then partially, as they afterwards completely, involved him.

In 1845, the year after the grants above alleged, it is asserted that certain correspondence took place between Mr. Webster and the New Zealand authorities, which was as follows:

Mr. Webster to Mr. Commissioner Fitz Gerald.

"AUCKLAND, March 8, 1845.

"SIR: I take the liberty of writing to you to know what has been the decision on my two land claims. I believe they are number 305 H. One is the Big Mercury Island and the other is a piece of land near the River Tairua, in the Bay of Plenty. Both of these claims were examined before Commissioner Godfrey at Coromandel Harbor, and I have not yet heard any more of them. The Mercury Island was purchased in 1838. I paid upwards of £300 for it, and have had possession of it ever since, and have expended a great deal of money on it, but the whole of the payment agreed on was not given to the natives, and when the claims were examined they agreed to give me a part of it for what they had received. The piece of land near Tairua was also purchased in 1838, and I paid about £400 for it, and since that I have expended about £400, for which I have never received any return whatever. I have never heard of any dispute of the title, which, I suppose, the evidence taken by the commissioner will prove.

"Your answer to this will oblige, your most obedient servant,

"WM. WEBSTER.

"COMMISSIONER FITZ GERALD, etc."

MINUTE THEREON BY THE GOVERNOR.

"Very large grants having been made to Mr. Webster, no further grant can be made until the opinion of the secretary of state as to the former grants is made known.

"R. F., March 10, 1845.

"MR. FITZ GERALD: Direct Mr. Chipchase to communicate this reply to Mr. Webster, who is now in Auckland, but about to leave immediately.

"R. F., March 10, 1845."

The private secretary to Mr. Webster.

"GOVERNMENT HOUSE, March 10, 1845.

"SIR: I am desired by the governor to acquaint you that His Excellency has examined and taken advice respecting your land claims, marked 305 H, and 305 J, and is sorry to find himself precluded from authorizing any further grant to be made to you at present, on account of the largeness of those grants already made in your name.

"J. W. HAMILTON,
"Private Secretary.

"P. S.—The governor directs me to say that the land which you now hold in undisputed possession will probably be granted to you eventually."

As the recommendation of Commissioner Fitz Gerald is, in the memorandum of Sir Robert Stout, declared to be a "mystery," the reply of the governor, made through his private secretary, is pronounced in the same memorandum to be "unfortunate in its expression." As the reply only evinces an intention to treat the acquisitions of Mr. Webster in a spirit of justice, on the clear principle of allowing him what he held "in undisputed possession," the unfortunateness of its expression is not perceived. In the memorandum of Sir Robert Stout the fact appears to have been wholly neglected that the reports of the commissioners, so far as they recommended grants, were only advisory. This fallacy is disclosed in the argument that because the commissioners reported that no grants could be made in certain cases, on account of the largeness of the grants made in other cases, the governor could not have referred to the claims mentioned by Mr. Webster in which no grants were recommended. It is to be remembered that in those very cases, or at least in some of them, the commissioners had reported valid titles, and in no instance discovered any evidence of bad faith. Nothing unfortunate is perceived in the language of the governor, nor is there any reason to suppose that it was intended to have any other effect than to declare the principle that the undisputed possession of land was to be treated as constituting a valid basis for a grant. It is not denied that Mr. Webster had made use of a portion of his lands; nor, notwithstanding the effort to throw discredit on Commissioner Fitz Gerald's recommendation, is any attempt made to impugn his statements that Mr. Webster had made large outlays on his land in addition to the purchase money, and that he was "one of the most enterprising settlers" in the colony, "having established a shipbuilding yard, several whaling stations, water mills, and other improvements." It is not strange, therefore, that the governor should have expressed the belief that the land which Mr. Webster held in undisputed possession would ultimately be granted to him.

Third commission.

But Mr. Webster's claims were not, in reality, disposed of until 1862, long after he had left the country, and without notice, by a third commission, consisting of Mr. F. D. Bell. This commission was constituted under "the land claims' settlement act, 1856," which made provision for the setting aside of all grants made under previous ordinances. It required all claimants to have the exterior boundaries of their claims surveyed and plans sent in to the commission, together with their grants and all documents and deeds relating to the alienation of any claims by an original claimant; but it prohibited the reconsideration of any case disallowed by any previous commission, or that had been withdrawn by the claimant.

Under this prohibition, the third commission did not examine and made no grant in cases 305 D, 305 E, 305 F, 305 L, 305 J, and 305 M, comprising claims to extensive tracts of land for which valuable consideration was given. The grants set forth in the report of Mr. Bell accompanying the memorandum of Sir Robert Stout are the only ones finally made in respect to the claims of Mr. Webster. It is stated in that memorandum "that all the grants issued under the ordinances were surrendered to him (Mr. Bell), together with all documents relating to the land described in such grants."

Referring to the report of Mr. Bell, we find, in respect to the claims of Mr. Webster, the following result:

"In case No. 305, in which the commissioners reported, in 1843, that Mr. Webster had purchased in good faith and paid for 250 acres, this third commission, in 1861, granted to R. Dacre 57.5 acres and to H. Downing 57.5; in all, 115 acres.

"In case No. 305 A, in which the commissioners reported, in 1843, that Mr. Webster had purchased and paid for 250 acres, this third commission, in 1860, granted to G. Beeson 355 acres.

"In case No. 305 B, in which the commissioners reported, in 1843, that Mr. Webster had purchased in good faith and paid for 1,500 acres, this third commission ordered a grant to be issued to J. Solomon; but no grant was, in fact, issued.

"In case No. 305 C, in which the commissioners reported, in 1843, that Mr. Webster had purchased in good faith and paid for 800 acres, this third commission, on the 20th of November, 1847, granted to R. Dacre 284 acres, and on the 3d of May, 1860, to the same person, 384 acres, and on the 25th of January, 1861, to T. Keran 59 acres; in all, 727 acres.

"In case No. 305 G, in which the commissioners reported, 1843, that Mr. Webster had purchased in good faith and paid for 10,000 acres, this third commission, at a time not known, granted to R. Dacre 1,944 acres, which issaid to have been commuted for scrip.

"In case No. 305 I, in which the commissioners reported, in 1843, that Mr. Webster had purchased in good faith and paid for 3,000 acres, this third commission, on the 3d of July, 1860, granted to J. Solomon 885 acres.

"In case No. 305 J, in which the commissioners reported, in 1843, a bona fide purchase of a tract which Mr. Webster alleged to contain 6,000 acres, this third commission made no grant, and no grant was ever made.

"In case No. 305 K, in which the commissioners reported, in 1843, that Mr. Webster had purchased 80,000 acres, this third commission, on the 27th of November, 1878, granted to the heirs of Sir S. Donald 1,464 acres; to F. Whittaker, 12,855 acres and 2,141 acres, and for 294 acres September 30, 1878; total, 16,754 acres.

"In case No. 305 M, in which the commissioners, in 1843, reported that Mr. Webster had purchased in good faith, but only partly paid for 3,500 acres, no grant was ever made."

Every one of these grants, it may be observed, was made to some person or persons alleged to be derivative owners from Mr. Webster.

Conclusions.

From the foregoing it appears:

- (1) That the good faith of Mr. Webster in his land purchases is unquestionable.
- (2) That the validity of nearly all his important conveyances from the natives was recognized and admitted, and valuable consideration established.
- (3) That, in consequence of the annexation of New Zealand by Great Britain and of the land ordinances adopted and enforced, Mr. Webster was prohibited from selling or conveying or completing title to any of the lands which he had purchased and of which he was in quiet and undisputed possession at the time of the annexation.
- (4) That in certain of Mr. Webster's cases (305, 305 A, 305 C, 305 G, 305 I) the land commissioners found that 94,300 acres had been purchased by Mr. Webster in good faith, but recommended grants to him and his assigns of only 17,655 acres.
- (5) That in certain other cases (305 B, 305 J, and 305 M) it was shown that 11,000 acres had been purchased by Mr. Webster in good faith, but that no grant whatever was made.
- (6) That in certain other cases (305 D, 305 F, and 305 L) no awards were made, on the ground that the claims had been withdrawn, which Mr. Webster denies. And in this relation it is to be observed that the withdrawal of these claims is alleged to have been made before Commissioner Godfrey in May and June, 1844, after he had ceased to be a commissioner and had returned to England, and after the second commission, consisting of Mr. Fitz Gerald, had entered upon its duties.
- (7) That these proceedings, which were consummated in 1862 under the act of 1856, were in derogation of the principle conceded by Lord Aberdeen to Mr. Everett in 1844.
- (8) That they were in derogation of the same principle as announced by the governor to Mr. Webster a year later, in 1845.

In view of the facts above set forth, it is not perceived what basis there is for the assertion in the memorandum of Sir Robert Stout that "awards were made in his (Mr. Webster's) favor, or in favor of his acknowledged assigns, of every single acre of land which the native owners admitted he had justly bought from them."

These words are found in the concluding paragraph of Sir Robert Stout's memorandum. Above them, on the same page, are the following observations:

"I have to remark that in the year 1874 the secretary of state, in a dispatch to Governor Sir James Fergusson, required a report on Mr. Webster's claims, in order to reply to a complaint made by Mr. L. C. Duncan, on behalf of Mr. Webster, that he had been treated with injustice in their adjudication.

"Mr. O'Rorke, the then commissioner, and at present Sir G. M. O'Rorke, speaker of the house of representatives, furnished to the governor for transmission to the secretary of state a full report on the claims, together with an opinion from Mr. Whitaker as to the accuracy of such report (who had been personally acquainted with all the details of Mr. Webster's land transactions at the Piako) and a further report from Dr. Pollen, then colonial secretary, who had been personally acquainted with Mr. Webster in New Zealand."

An examination of the report of Mr. O'Rorke does not render necessary any change or modification in the statements herein made in regard to Mr. Webster's claims. The

"further report," however, of Dr. Pollen merits examination. It is expressly referred to and put forward in the memorandum of Sir Robert Stout as the statement of a contemporaneous witness and as possessing the peculiar value of a declaration made by an individual "personally acquainted with Mr. Webster in New Zealand." The value of this piece of evidence, which was formulated on July 29, 1874, is readily tested. Dr. Pollen's statement is as follows:

"I knew Mr. Webster during the period of his residence in New Zealand, from January, 1840. He was what was then called a 'trader' on the coast, and was known to represent or to be supported by Sydney merchants.

"Towards the close of the year 1839, when it became certain that the sovereignty of New Zealand was about to be acquired by Great Britain, Mr. Webster, as did many others, dealt largely with natives for land, or, rather, for land claims. There was then no way of ascertaining the right to land of the natives who took 'trade' for their signatures; there was no survey, and the estimate of area within the boundaries, when any boundaries were defined in the deeds of conveyance, was almost always excessive, in many cases ridiculously so. Hence the exaggerated character of some of the claims.

"The early land purchases, which were made with deliberation and care, and in accordance with native usage, were rarely questioned; but those which were made in haste immediately before January, 1840, and, as it were, more for the purpose of getting up a "claim" than of acquiring title, were commonly repudiated by the native owners of the land. Some of Mr. Webster's claims are in this category.

"Mr. Whitaker, of Auckland, who has a derivative title through Mr. Webster to a large block of land in the Piako district, has not, to this day, been able to get possession from the natives. It will be necessary, in order to keep the faith of the Crown (as the land in question was awarded to Mr. Webster by the land claims commissioner), and to preserve the peace of the country, either to extinguish the native title to this land by purchase or to find for Mr. Whitaker an equivalent elsewhere. A proposal with a view to settlement of this claim is now before this Government.

"Mr. Webster's failure was, as I recollect, of the usual commercial character; he was already in difficulties, as shown by his arrest in Sydney in 1840, and his insolvency was completed in the financial crisis of 1842-43 in New South Wales, by which his principals there were affected. His misfortune was never, so far as I know, until now attributed to the action of the colonial government or of the Imperial Government. If any such complaint had been made in the early days of settlement, I think that I must have heard it. I do not think that it would have been made in the presence of any person familiar with the facts. It may at present be regarded as a lawyer's plea, merely, on his client's behalf.

"DANIEL POLLEN.

"JULY 29, 1874."

The first observation to be made upon this statement is that Dr. Pollen does not assert acquaintance with Mr. Webster prior to January, 1840, before which time every title claimed by Mr. Webster was acquired. The next thing to be noticed is the declaration that "towards the close of the year 1839, when it became certain that the sovereignty of New Zealand was about to be acquired by Great Britain, Mr. Webster, as did many others, dealt largely with the natives for land, or rather land claims."

In answer to this, it is to be observed, in the first place, that the commissioners found and reported good faith and valuable consideration in all Mr. Webster's purchases which they examined. In every case but one they found that the purchases had been made from the rightful native owners, and in that case valuable consideration for the purchase was reported. But the conclusive refutation of the impugnments of Dr. Pollen is found in a review of the claims examined and reported upon by the commissioners, as follows: 305, purchased June 4, 1837; 305 A, purchased December 8, 1836; 305 B, purchased November 23, 1839; 305 C, purchased January 30, 1837; 305 D, purchased 1836; 305 E, purchased 1838; 305 F, purchased 1836; 305 L, purchased November 24, 1839; 305 G, purchased January, 1839; 305 H, purchased November 23, 1839; 305 I, purchased 1836 and 1838; 305 J, purchased May 20, 1839; 305 K, purchased December 31, 1839; 305 M, purchased 1838.

It thus appears that out of fourteen cases or claims only four (305 B, 305 L, 305 H, and 305 K) arose in the latter part of 1839 so as to fall under Dr. Pollen's general charge that Mr. Webster was speculating on the probable annexation of the island by Great Britain. In view of these facts, no comment is necessary upon the value of the opinions and recollections stated in the last paragraph of Dr. Pollen's memorandum. What is meant by the declaration that "Mr. Webster's failure was, as I (Dr. Pollen) recollect it, of the usual commercial character?" "He" (Mr. Webster), says Dr. Pollen, "was already in difficulties, as shown by his arrest in Sydney in 1840." This was after the proclamations of Lieutenant-Governor Hobson invalidating the land titles. Dr. Pollen further says:

"His misfortune was never, so far as I know, until now attributed to the action of the colonial government or of the Imperial Government. If any such complaint had been made in the early days of settlement, I think that I must have heard it. I do not think that it would have been made in the presence of any person familiar with the facts. It may at present be regarded as a lawyer's plea, merely, on his client's behalf."

The value of this evidence, either upon the score of information, of recollection, or of competency, is easily tested.

The very allegation that Dr. Pollen says would not have been made by Mr. Webster "in the presence of any person familiar with the facts" was made in the letter of Mr. Webster to the colonial secretary of July 20, 1841, heretofore quoted, and was never questioned. But this is not all. The fact appears equally and unmistakably in the recommendation of Mr. Commissioner Fitz Gerald, which bears conclusive evidence of the good faith of Mr. Webster's purchases, of his large outlays upon and development of his lands, and of his enterprising and useful character as a settler.

It may be thought somewhat significant that the attack made in 1874, and now sanctioned and renewed by Sir Robert Stout, upon the conduct of Mr. Webster is conclusively answered by British official records, which, being nearly contemporaneous with the transactions of Mr. Webster, and containing the testimony of persons having actual knowledge of the facts, uniformly attest his good faith and the meritorious character of his claims. In 1843 his claims were found to be bona fide, but were disallowed on the ground that the ordinances did not permit him to hold what he had purchased and paid for in good faith. The disallowance was modified, completed, and made final under the act of 1856. In 1874, when he presses for the recognition of the claims so disallowed, another and wholly inconsistent ground is assumed, against all the evidence, and it is alleged that he is not entitled to further consideration, because he was a dealer in "land claims" in anticipation of the annexation of New Zealand by Great Britain.

These two positions can not both be maintained. Nor, if the later position be true, can it be understood why, as the memorandum of Sir Robert Stout constantly reiterates, Mr. Webster was treated with exceptional liberality. Such treatment can be explained only on one or both of the suppositions that the good faith of Mr. Webster's transactions was admitted or that a partial recognition was made of his rights as an American citizen.

In regard to the Piako tract, which he purchased in 1838, and for which a deed was executed in 1839, Mr. Webster states that before the case came before the commissioners in 1845 he sent a surveyor with a party of chiefs and others from whom he had made his purchase and measured the front boundary, which extended about 21 miles along the river bank, and then marked each corner of the tract, which extended about 8 miles back from the river. In regard to the fact and notoriety of this purchase, Mr. Webster refers to a report of George Clarke, "protector of aborigines," to the colonial secretary of New Zealand, which was transmitted to the British Government, in which there is the following:

"Upon the western side of the river (Piako) is the extensive purchase of Mr. Webster, who claims upwards of 40 miles of frontage, two-thirds of which is unavailable, being swamp; the upper part is good; the depth of the river for about 30 miles is less than 8 feet."

The commissioners found that he had made bona fide purchases from the chiefs, as he alleges.

The claim which Mr. Webster now sets forth is as follows:

- (1) For the value of 11,000 acres of land (included in cases 305 B, 305 J, 305 M), found to have been purchased in good faith, but which were never granted to him or his assigns, and which he was prohibited by the land ordinances and officers from selling or conveying, estimated at £1 per acre, £11,000.
- (2) For the value of 84,300 acres of land (included in cases 305, 305 A, 305 C, 305 I, 305 K), found to have been purchased by Mr. Webster in good faith, less 5,000 acres assigned to R. Dacre, leaving 79,800 acres, estimated at £1 per acre, £79,800.
- (3) For the value of 40,960 acres of land, comprised in case 305 G and proved to have been purchased in good faith, estimated at £1 per acre, £40,960.
- (4) For the value of 3,000 acres, case 305 H, proved to have been purchased in good faith, and for the value of spars taken from the land for the use of the British navy, £25,645.
- (5) For the value of 9,000 acres (cases 305 D, 305 F, 305 L), purchased in good faith and erroneously alleged to have been withdrawn from the commission, estimated at £1 per acre, £9,000.

Mr. Webster also asserts claims to other tracts of land, comprising about 200,000 acres, which he estimates at 10 shillings per acre, and claims damages for the destruction of his credit and business in New Zealand, and contends that interest should be allowed on all the items except the last from January 30, 1840. Mr. Webster does not include in the above statement Barrier Island (case No. 305 E), which he reserves for further consideration.

Mr. Blaine to Mr. Lincoln.

No. 373.]

DEPARTMENT OF STATE,
Washington, October 22, 1890.

SIR: A concurrent resolution was approved by the Senate of the United States on May 2, 1890, and by the House of Representatives October 1, 1890, to the end of securing treaty stipulations for the prevention of the entry into this country of Chinese laborers from the adjacent countries, in the following words:

Resolved by the Senate (the House of Representatives concurring), That the President, if in his opinion not incompatible with the public interests, be requested to enter into negotiations with the Governments of Great Britain and Mexico with a view to securing treaty stipulations with those Governments for the prevention of the entry of Chinese laborers from the Dominion of Canada and Mexico into the United States contrary to the laws of the United States.

The Government of Her Britannic Majesty can not have failed to perceive the grave embarrassments attending the application of diverse legislation to Chinese persons entering the ports of two neighboring countries, while a long stretch of inland frontier between those countries remains unguarded, or can only be watched with difficulty in order to prevent the influx by land of such Chinese as may have entered the adjacent State, whether lawfully or unlawfully. In case of Chinese surreptitiously entering the territory of one State, in violation of its laws, for the sole purpose of effecting transit across its jurisdiction and so gaining unlawful access to the neighboring State, the evil has lately reached such proportions as to suggest that a remedy is to be sought in the common interest of both countries.

I have therefore, by direction of the President, to instruct you to sound the Government of Her Britannic Majesty as to its willingness to enter into negotiations to the end proposed in the concurrent resolution above quoted, and, should a favorable disposition be manifested, you may ask a general expression of views as to the stipulations most likely to comport with the legislation of the Dominion of Canada concerning the treatment of Chinese labor immigration, together with a special consideration of the expediency of so shaping the negotiations by mutual understanding as to insure a reasonable uniform application of preventive measures in the United States, Great Britain, and Mexico.

I am, etc.,

JAMES G. BLAINE.

Mr. White to Mr. Blaine.

No. 340.]

LEGATION OF THE UNITED STATES,
London, November 6, 1890. (Received November 17.)

SIR: Referring to your instruction No. 373 of October 22, I have the honor to acquaint you that I had an interview yesterday with the Marquis of Salisbury with respect to the concurrent resolution of the Senate and House of Representatives, requesting the President "to enter into negotiations with the Governments of Great Britain and Mexico with a view to securing treaty stipulations with those Governments for

the prevention of the entry of Chinese laborers from the Dominion of Canada and Mexico into the United States contrary to the laws of the United States."

I explained briefly to His Lordship the difference between our own legislation and that of Canada relative to Chinese immigration and the grave embarrassments attending the application of the same, as set forth in your instruction, and I informed him that the evil caused by the surreptitious entry of Chinese into the territory of one State, in violation of its laws, for the sole purpose of effecting a transit across its jurisdiction, and so gaining unlawful access to the neighboring State, had lately assumed such proportions as to suggest that a remedy should be sought in the common interest of both countries.

I then stated that, with a view to attaining this end, both Houses of Congress had concurred in the resolution in question, which I proceeded to read and of which I left a copy with His Lordship; adding that, in accordance therewith, I had been instructed to inquire whether Her Majesty's Government would be willing to enter into negotiations of the nature suggested.

Lord Salisbury replied that the subject was entirely new to him, and that, before expressing an opinion relative thereto, it would be necessary for him to ascertain the views of the Canadian Government. He promised to communicate with the secretary of state for the colonies in the matter and to let me have an answer as soon as he should be in a position to do so.

I have, etc.,

HENRY WHITE.

CORRESPONDENCE WITH THE LEGATION OF GREAT BRITAIN AT WASHINGTON.

Mr. Edwardes to Mr. Blaine.

BAR HARBOR, August 24, 1889.

SIR: In accordance with instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, I have the honor to state to you that repeated rumors have of late reached Her Majesty's Government that United States cruisers have stopped, searched, and even seized British vessels in Behring Sea outside of the 3-mile limit from the nearest land. Although no official confirmation of these rumors has reached Her Majesty's Government, there appears to be no reason to doubt their authenticity.

I am desired by the Marquis of Salisbury to inquire whether the United States Government are in possession of similar information, and, further, to ask that stringent instructions may be sent by the United States Government at the earliest moment to their officers, with the view to prevent the possibility of such occurrences taking place.

In continuation of my instructions, I have the honor to remind you that Her Majesty's Government received very clear assurances last year from Mr. Bayard, at that time Secretary of State, that, pending the discussion of the general questions at issue, no further interference should take place with British vessels in Behring Sea.

In conclusion, the Marquis of Salisbury desires me to say that Sir Julian Pauncefote, Her Majesty's minister, will be prepared on his return to Washington in the autumn to discuss the whole question, and Her Majesty's Government wish to point out to the United States Government that a settlement can not but be hindered by any measures of force which may be resorted to by the United States.

I have, etc.,

H. G. EDWARDES.

Mr. Blaine to Mr. Edwardes.

BAR HARBOR, August 24, 1889.

SIR: I have the honor to acknowledge the receipt of your communication of this date, conveying to me the intelligence "that repeated rumors have of late reached Her Majesty's Government that United States cruisers have stopped, searched, and even seized British vessels in Behring Sea outside the 3-mile limit from the nearest land." And you add that, "although no official confirmation of these rumors has reached Her Majesty's Government, there appears to be no reason to doubt their authenticity."

In reply I have the honor to state that the same rumors, probably based on truth, have reached the Government of the United States, but that up to this date there has been no official communication received on the subject.

It has been and is the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in the Behring Sea; and the President believes that the responsibility for delay in the adjustment can not be properly charged to the Government of the United States.

I beg you will express to the Marquis of Salisbury the gratification with which the Government of the United States learns that Sir Julian Pauncefote, Her Majesty's minister, will be prepared, on his return to Washington in the autumn, to discuss the whole question. It gives me pleasure to assure you that the Government of the United States will endeavor to be prepared for the discussion, and that, in the opinion of the President, the points at issue between the two Governments are capable of prompt adjustment on a basis entirely honorable to both.

I have, etc.,

JAMES G. BLAINE.

Mr. Edwardes to Mr. Blaine.

BAR HARBOR, August 25, 1889.

SIR: I had the honor to receive yesterday your note in which you have been good enough to inform me, with respect to the repeated rumors which have of late reached Her Majesty's Government of the search and seizure of British vessels in Behring Sea by United States cruisers, that the same rumors, probably based on truth, have reached

the United States Government, but that up to this date there has been no official communication received on the subject.

At the same time you have done me the honor to inform me that it has been and is the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in the Behring Sea; and that the President believes that the responsibility for delay in that adjustment can not be properly charged to the Government of the United States.

You request me at the same time to express to the Marquis of Salisbury the gratification with which the Government of the United States learns that Sir Julian Pauncefote, Her Majesty's minister, will be prepared on his return to Washington in the autumn to discuss the whole question, and you are good enough to inform me of the pleasure you have in assuring me that the Government of the United States will endeavor to be prepared for the discussion, and that, in the opinion of the President, the points at issue between the two Governments are capable of prompt adjustment on a basis entirely honorable to both.

I shall lose no time in bringing your reply to the knowledge of Her Majesty's Government, who, while awaiting an answer to the other inquiry I had the honor to make to you, will, I feel confident, receive with much satisfaction the assurances which you have been good enough to make to me in your note of yesterday's date.

I have, etc.,

H. G. EDWARDES.

Mr. Edwardes to Mr. Blaine.

WASHINGTON, *September 12, 1889.*

MY DEAR MR. BLAINE: I should be very much obliged if you would kindly let me know when I may expect an answer to the request of Her Majesty's Government, which I had the honor of communicating to you in my note of the 24th of August, that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring Sea. Her Majesty's Government are earnestly awaiting the reply of the United States Government on this subject, as the recent reports of seizures having taken place are causing much excitement both in England and in Canada.

I remain, etc.,

H. G. EDWARDES.

Mr. Blaine to Mr. Edwardes.

BAR HARBOR, *September 14, 1889.*

SIR: I have the honor to acknowledge the receipt of your personal note of the 12th instant, written at Washington, in which you desire to know when you may expect an answer to the request of Her Majesty's Government, "that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring Sea."

I had supposed that my note of August 24 would satisfy Her Majesty's Government of the President's earnest desire to come to a friendly agreement touching all matters at issue between the two Governments in relation to Behring Sea, and I had further supposed that your mention of the official instruction to Sir Julian Pauncefote to proceed, immediately after his arrival in October, to a full discussion of the question, removed all necessity of a preliminary correspondence touching its merits.

Referring more particularly to the question to which you repeat the desire of your Government for an answer, I have the honor to inform you that a categorical response would have been and still is impracticable,—unjust to this Government, and misleading to the Government of Her Majesty. It was therefore the judgment of the President that the whole subject could more wisely be remanded to the formal discussion so near at hand which Her Majesty's Government has proposed, and to which the Government of the United States has cordially assented.

It is proper, however, to add that any instruction sent to Behring Sea at the time of your original request, upon the 24th of August, would have failed to reach those waters before the proposed departure of the vessels of the United States.

I have, etc.,

JAMES G. BLAINE.

The Marquis of Salisbury to Mr. Edwardes.

[Left at the Department of State by Mr. Edwardes.]

FOREIGN OFFICE, October 2, 1889.

SIR: At the time when the seizures of British ships hunting seals in Behring's Sea during the years 1886 and 1887 were the subjects of discussion the minister of the United States made certain overtures to Her Majesty's Government with respect to the institution of a close time for the seal fishery, for the purpose of preventing the extirpation of the species in that part of the world. Without in any way admitting that considerations of this order could justify these seizure of vessels which were transgressing no rule of international law, Her Majesty's Government were very ready to agree that the subject was one deserving of the gravest attention on the part of all the Governments interested in those waters.

The Russian Government was disposed to join in the proposed negotiations, but they were suspended for a time in consequence of objections raised by the Dominion of Canada and of doubts thrown on the physical data on which any restrictive legislation must have been based.

Her Majesty's Government are fully sensible of the importance of this question, and of the great value which will attach to an international agreement in respect to it, and Her Majesty's representative will be furnished with the requisite instructions in case the Secretary of State should be willing to enter upon the discussion.

You will read this dispatch and my dispatch No. 205, of this date, to the Secretary of State, and, if he should desire it, you are authorized to give him copies of them.

I am, etc.,

SALISBURY.

The Marquis of Salisbury to Mr. Edwardes.

(Left at the Department of State by Mr. Edwardes.)

FOREIGN OFFICE, *October 2, 1889.*

SIR: In my dispatch No. 176 of the 17th August last I furnished you with copies of a correspondence which had passed between this department and the colonial office on the subject of the seizure of the Canadian vessels *Black Diamond* and *Triumph* in the Behring's Sea by the United States revenue cutter *Rush*.

I have now received and transmit herewith a copy of a dispatch from the governor-general of Canada to the secretary of state for the colonies, which incloses copies of the instructions given to the special officer placed on board the *Black Diamond* by the officer commanding the *Rush*, and of a letter from the collector of customs at Victoria, together with the sworn affidavits of the masters of the two Canadian vessels.

It is apparent from these affidavits that the vessels were seized at a distance from land far in excess of the limit of maritime jurisdiction which any nation can claim by international law.

The cases are similar in this respect to those of the ships *Caroline*, *Onward*, and *Thornton*, which were seized by a vessel of the United States outside territorial waters in the summer of 1887. In a dispatch to Sir L. West dated September 10, 1887, which was communicated to Mr. Bayard, I drew the attention of the Government of the United States to the illegality of these proceedings, and expressed a hope that due compensation would be awarded to the subjects of Her Majesty who had suffered from them. I have not, since that time, received from the Government of the United States any intimation of their intentions in this respect, or any explanation of the grounds upon which this interference with the British sealers had been authorized. Mr. Bayard did, indeed, communicate to us unofficially an assurance that no further seizures of this character should take place pending the discussion of the questions involved between the two Governments. Her Majesty's Government much regret to find that this understanding has not been carried forward into the present year, and that instructions have been issued to cruisers of the United States to seize British vessels fishing for seals in Behring's Sea outside the limit of territorial waters. The grounds upon which these violent measures have been taken have not been communicated to Her Majesty's Government, and remain still unexplained.

But in view of the unexpected renewal of the seizures of which Her Majesty's Government have previously complained, it is my duty to protest against them, and to state that, in the opinion of Her Majesty's Government, they are wholly unjustified by international law.

I am, etc.,

SALISBURY.

[Inclosure 1.]

Mr. Bramston to the undersecretary of state for foreign affairs.

COLONIAL OFFICE, *September 10, 1889.*

SIR: With reference to previous correspondence respecting the seizures of Canadian sealers in Behring's Sea, I am directed by Lord Knutsford to transmit to you for communication to the Marquis of Salisbury a copy of a dispatch from the governor-general of the Dominion with its inclosures on the subject.

I am, etc.,

JOHN BRAMSTON.

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[Inclosure 2.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, August 26, 1889.

MY LORD: With reference to previous correspondence respecting the seizure of the *Black Diamond* and the detention of the *Triumph* in Behring Sea, I have the honor to forward herewith a copy of an approved minute of the privy council submitting copies of the instructions given to the special officer placed on board the *Black Diamond* by the captain of the United States revenue cutter *Rush*, and of a letter from the collector of customs at Victoria, together with the affidavits of the masters of the two vessels.

I have, etc.,

STANLEY OF PRESTON.

[Inclosure 2.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council, on the 22d of August, 1889.

On a report dated the 13th of August, 1889, from the minister of marine and fisheries, submitting, in reference to the seizure in the Behring Sea of the schooner *Black Diamond* and the boarding of the schooner *Triumph*, the original instructions given to the special officer placed by the captain of the United States revenue cutter *Rush* on board the *Black Diamond* at the time of the latter's seizure, and also a letter from the honorable Mr. W. Hamley, collector of customs at Victoria, British Columbia, together with the following affidavits:

1. Affidavit of Owen Thomas, of Victoria, British Columbia, master of the British sealing schooner *Black Diamond*.

2. Affidavit of Daniel McLean, of Victoria, British Columbia, master of the British sealing schooner *Triumph*.

The minister recommends that copies of the inclosures herewith be immediately forwarded for the information of Her Majesty's Government.

The committee concurring advise that your excellency be moved to forward this minute, together with copies of the inclosures, to the right honorable the secretary of state for the colonies.

All of which is respectfully submitted.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 4.]

Captain Shepard to Mr. Hankanson.

U. S. REVENUE STEAMER RUSH, BEHRING SEA,
Latitude 56° 22' N., longitude 170° 25' W., July 11, 1889.

SIR: You are hereby appointed a special officer, and directed to proceed on board the schooner *Black Diamond*, of Victoria, British Columbia, this day seized for violation of law (Section 1956, Revised Statutes of the United States), and assume charge of the said vessel, her officers and crew, twenty-five in number, all told, excepting the navigation of the vessel, which is reserved to Capt. Owen Thomas, and which you will not interfere with unless you become convinced that he is proceeding to some other than your port of destination, in which event you are authorized to assume full charge of the vessel. Everything being in readiness, you will direct Capt. Owen Thomas to make the best of his way to Sitka, Alaska, and upon arrival at that port you will report in person to the United States district attorney for the district of Alaska, and deliver to him the letter so addressed, the schooner *Black Diamond*, of Victoria, British Columbia, her outfit, and the persons of Capt. Owen Thomas and Mate Alexander Galt, and set her crew at liberty. After being relieved of the property and persons entrusted to your care, you will await at Sitka the arrival of the *Rush*.

Very respectfully, etc.,

L. G. SHEPARD,
Captain U. S. Revenue Steamer *Rush*.

[Inclosure 5.]

*Mr. Hamley to the minister of customs.*CUSTOM-HOUSE, *Victoria, August 5, 1889.*

SIR: I forward herewith, in original, the orders given by Captain Shepard, of the United States revenue cutter *Rush*, to J. Hankanson, special officer, to proceed on board the British schooner *Black Diamond*, seized in Behring Sea, and to take her to Sitka. The master of the schooner reports to me that the Indians employed as hunters in the schooner would, he believes, have murdered Hankanson if an attempt had been made to take her to Sitka. The master got out of the sea and sailed at once for Victoria without any opposition on the part of Hankanson, and I think it is very probable that the orders given him privately by the captain of the *Rush* were not to interfere in any way with the destination of the vessel.

She arrived here on Saturday evening, the 3d of August. The object of the revenue cutter was no doubt attained in taking her skins, rifle, and Indian spears away and sending the vessel out of Behring Sea. Her certificate of registry was also taken away. Shall I give her a fresh certificate?

I have, etc.,

W. HAMLEY.

[Inclosure 6.]

Declaration of Owen Thomas.

In the matter of the seizure of the sealing schooner Black Diamond by the United States revenue cutter Richard Rush on the 11th day of July, 1889.

I, Owen Thomas, of the city of Victoria, British Columbia, master mariner, do solemnly and sincerely declare that:

1. I am a master mariner and was, at the time of the occurrences hereinafter mentioned and still am, the master of the schooner *Black Diamond*, of the port of Victoria, British Columbia.

2. On the 11th day of July, 1889, whilst I was on board and in command of the said schooner, and she being then on a sealing expedition, and being in latitude 56° 22' north, and longitude 170° 25' west, and at a distance of about 35 miles from land, the United States revenue cutter *Richard Rush* overhauled the said schooner, and having hailed her by shouting a command which I could not distinctly hear, steamed across the bows of said schooner, compelling her to come to. A boat was then lowered from the said cutter and Lieutenant Tuttle and five other men from the United States vessel came aboard the said schooner. I asked the lieutenant what he wanted, and on his stating he wished to see the ship's papers, I took him down to my cabin and showed them to him. He then commanded me to hand the papers over to him; this I refused to do and locked them up in my locker.

At this time there were 131 seal-skins aboard the schooner, 76 of which had been salted and 55 of which were unsalted, and Lieutenant Tuttle ordered his men to bring up the skins and to take the salted ones on board the *Richard Rush*. The cutter's men accordingly transferred all of the salted skins from my schooner to the *Richard Rush* and also took aboard the cutter two sacks of salt and a rifle belonging to the schooner. Lieutenant Tuttle then again demanded me to give up the ship's papers and told me that if I would not give them up he would take them by force. As I still declined to part with them he signaled to the cutter and a boat came off with the master-at-arms, who came on board the schooner. Lieutenant Tuttle asked me for the keys of the locker, so that he might get the papers, and upon my refusing to give them to him he ordered the master-at-arms to force open the locker. The master-at-arms then unscrewed the hinges of the locker, took out the ship's papers, and handed them to Lieutenant Tuttle. Lieutenant Tuttle then returned to the *Richard Rush* and came back to the schooner again, bringing on board with him one whose name I have since heard to be John Hawkinson and who I believe to be a quartermaster of the *Richard Rush*. Lieutenant Tuttle then told me to take the schooner to Sitka. I told him that I would not go unless he put a crew on board to take the schooner there. He gave Hawkinson directions to take the ship to Sitka and gave him letters to give to the United States authorities on arrival.

Lieutenant Tuttle before leaving my schooner ordered twenty Indian spears which were aboard for sealing purposes to be taken on to the *Richard Rush*. I asked the lieutenant to give me a receipt for the papers, skins, etc., he had taken; this he refused to do, and he then returned to the *Richard Rush*, taking the said spears with him

and leaving the man Hawkinson in charge of the schooner; shortly afterwards the cutter steamed away without returning the ship's papers, seal skins, and other goods before mentioned.

After the departure of the United States vessel, I directed my course to Ounalaaka, hoping to meet with an English man-of-war. We arrived there on the 15th of July. My crew at this time consisted of a mate, Alexander Gault, two white seamen, deck hands, and a white cook and twenty Indians. The Indians, thinking we were going to Sitka, became mutinous, and told me the best thing I could do to avoid trouble was to take the schooner home; they also warned the other white men on board that if they thought I meant to take the schooner to Sitka they would throw us all overboard.

There being no man-of-war at Ounalaaka, I left there and directed my course to Victoria, and arrived at that port at about 7 p. m. on Saturday, the 3d of August last, having on board the said John Hawkinson, who during the cruise to Victoria had not tried to give me any directions or made any suggestions as to the course to be taken by the schooner. On arrival at Victoria, Hawkinson was put on shore by one of my boats.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the oaths ordinance 1869.

OWEN THOMAS.

Declared at the city of Victoria, British Columbia, the 7th day of August, 1889, before me,

ERNEST V. BODWELL,
A Notary Public for the Province of British Columbia.

[Inclosure 7.]

Affidavit of Daniel McLean.

I, Daniel McLean, of the city of Victoria, in the province of British Columbia, Dominion of Canada, being duly sworn, depose as follows:

That I am master and part owner of the British schooner *Triumph*, registered at the port of Victoria, British Columbia; that in conformity with the laws of the Dominion of Canada I regularly cleared the said schooner *Triumph* for a voyage to the North Pacific Ocean and Behring Sea, and that in pursuance of my legitimate business did enter the said Behring Sea on 4th day of July, 1889, and did in a peaceful manner proceed on my voyage, and being in latitude 56° 05' north, longitude 171° 23' west, on the 11th day of July, 1889, at the hour of 8.30 a. m., was hailed by commander of the United States revenue cutter *Richard Rush*, the said revenue cutter being a vessel belonging to the Government of the United States and regularly commissioned by the same; a boat having been lowered by officer and crew, I was boarded by the same.

The officer in charge of the boat being one Lieutenant Tuttle, who demanded the official papers of my vessel, and after reading the same proceeded to search my vessel for seals, and finding no evidence of the same, informed me that orders had been issued by the Secretary of the United States under the proclamation of the President, instructing the commanding officer of the said revenue cutter *Rush* to seize all vessels found sealing in Behring Sea; he also told me that should he again board me and find seal skins on board he would seize and confiscate the vessel and catch; he furthermore informed me that he had already seized the British schooner *Black Diamond*, of Victoria, British Columbia, and that she had been sent to Sitka, and that therefore, by reason of his threats and menaces, I was caused to forego my legitimate and peaceful voyage on the high seas and return to the port of my departure, causing serious pecuniary loss to myself, crew, and owners, for which a claim will be formulated and forwarded in due course. And I make this solemn affidavit, conscientiously believing the same to be true, and by virtue of the oaths ordinance 1869.

DANIEL McLEAN,
Master of schooner Triumph.

Sworn before me this 8th August, 1889, at Victoria, British Columbia.

G. MORISON, J. P.,
A Justice of the Peace for the Province of British Columbia.

Mr. Edwardes to Mr. Blaine.

BRITISH LEGATION,
Washington, October 14, 1889.

MY DEAR MR. BLAINE: When I had the honor to read to you on Saturday, the 12th instant, two dispatches addressed to me by the Marquis of Salisbury on the subject of the seizures of British sealers in Behring Sea, you inquired of me when I reached the passage which runs as follows, "Mr. Bayard did indeed communicate to us, unofficially, an assurance that no further seizures of this character should take place pending the discussion of the questions involved between the two Governments," if I could tell you in what way this assurance was unofficially communicated to Her Majesty's Government. I replied that I believed it had been so communicated in a letter addressed by Mr. Bayard to Sir Lionel West, and that that letter would be found in the printed correspondence on the subject which was laid before Congress this year.

I have since learnt that the assurance which Lord Salisbury had in mind when writing the dispatch I read was not that to which I referred in my reply to you, but was an assurance communicated unofficially to his lordship by the United States minister in London, and also by Mr. Bayard to Sir Lionel West in the month of April last year.

I have, etc.,

H. G. EDWARDES.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, January 22, 1890.

SIR: Several weeks have elapsed since I had the honor to receive through the hands of Mr. Edwardes copies of two dispatches from Lord Salisbury complaining of the course of the United States revenue cutter *Rush* in intercepting Canadian vessels sailing under the British flag and engaged in taking fur seals in the waters of the Behring Sea.

Subjects which could not be postponed have engaged the attention of this Department and have rendered it impossible to give a formal answer to Lord Salisbury until the present time.

In the opinion of the President, the Canadian vessels arrested and detained in the Behring Sea were engaged in a pursuit that was in itself *contra bonos mores*, a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States. To establish this ground it is not necessary to argue the question of the extent and nature of the sovereignty of this Government over the waters of the Behring Sea; it is not necessary to explain, certainly not to define, the powers and privileges ceded by His Imperial Majesty the Emperor of Russia in the treaty by which the Alaskan territory was transferred to the United States. The weighty considerations growing out of the acquisition of that territory, with all the rights on land and sea inseparably connected therewith, may be safely left out of view, while the grounds are set forth upon which this Government

rests its justification for the action complained of by Her Majesty's Government.

It can not be unknown to Her Majesty's Government that one of the most valuable sources of revenue from the Alaskan possessions is the fur-seal fisheries of the Behring Sea. Those fisheries had been exclusively controlled by the Government of Russia, without interference or without question, from their original discovery until the cession of Alaska to the United States in 1867. From 1867 to 1886 the possession in which Russia had been undisturbed was enjoyed by this Government also. There was no interruption and no intrusion from any source. Vessels from other nations passing from time to time through Behring Sea to the Arctic Ocean in pursuit of whales had always abstained from taking part in the capture of seals.

This uniform avoidance of all attempts to take fur seal in those waters had been a constant recognition of the right held and exercised first by Russia and subsequently by this Government. It has also been the recognition of a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to their extinction. This is not only the well-known opinion of experts, both British and American, based upon prolonged observation and investigation, but the fact had also been demonstrated in a wide sense by the well-nigh total destruction of all seal fisheries except the one in the Behring Sea, which the Government of the United States is now striving to preserve, not altogether for the use of the American people, but for the use of the world at large.

The killing of seals in the open sea involves the destruction of the female in common with the male. The slaughter of the female seal is reckoned as an immediate loss of three seals, besides the future loss of the whole number which the bearing seal may produce in the successive years of life. The destruction which results from killing seals in the open sea proceeds, therefore, by a ratio which constantly and rapidly increases, and insures the total extermination of the species within a very brief period. It has thus become known that the only proper time for the slaughter of seals is at the season when they betake themselves to the land, because the land is the only place where the necessary discrimination can be made as to the age and sex of the seal. It would seem, then, by fair reasoning, that nations not possessing the territory upon which seals can increase their numbers by natural growth, and thus afford an annual supply of skins for the use of mankind, should refrain from the slaughter in open sea, where the destruction of the species is sure and swift.

After the acquisition of Alaska the Government of the United States, through competent agents working under the direction of the best experts, gave careful attention to the improvement of the seal fisheries. Proceeding by a close obedience to the laws of nature, and rigidly limiting the number to be annually slaughtered, the Government succeeded in increasing the total number of seals and adding correspondingly and largely to the value of the fisheries. In the course of a few years of intelligent and interesting experiment the number that could be safely slaughtered was fixed at 100,000 annually. The company to which the administration of the fisheries was intrusted by a lease from this Government has paid a rental of \$50,000 per annum, and in addition thereto \$2.62½ per skin for the total number taken. The skins were regularly transported to London to be dressed and prepared for the markets of the world, and the business had grown so large that the earnings of

English laborers, since Alaska was transferred to the United States, amount in the aggregate to more than twelve millions of dollars.

The entire business was then conducted peacefully, lawfully, and profitably—profitably to the United States, for the rental was yielding a moderate interest on the large sum which this Government had paid for Alaska, including the rights now at issue; profitably to the Alaskan Company, which, under governmental direction and restriction, had given unwearied pains to the care and development of the fisheries; profitably to the Aleuts, who were receiving a fair pecuniary reward for their labors, and were elevated from semi-savagery to civilization and to the enjoyment of schools and churches provided for their benefit by the Government of the United States; and, last of all, profitably to a large body of English laborers who had constant employment and received good wages.

This, in brief, was the condition of the Alaska fur-seal fisheries down to the year 1886. The precedents, customs, and rights had been established and enjoyed, either by Russia or the United States, for nearly a century. The two nations were the only powers that owned a foot of land on the continents that bordered, or on the islands included within, the Behring waters where the seals resort to breed. Into this peaceful and secluded field of labor, whose benefits were so equitably shared by the native Aleuts of the Pribylov Islands, by the United States, and by England, certain Canadian vessels in 1886 asserted their right to enter, and by their ruthless course to destroy the fisheries and with them to destroy also the resulting industries which are so valuable. The Government of the United States at once proceeded to check this movement, which, unchecked, was sure to do great and irreparable harm.

It was cause of unfeigned surprise to the United States that Her Majesty's Government should immediately interfere to defend and encourage (surely to encourage by defending) the course of the Canadians in disturbing an industry which had been carefully developed for more than ninety years under the flags of Russia and the United States—developed in such manner as not to interfere with the public rights or the private industries of any other people or any other person.

Whence did the ships of Canada derive the right to do in 1886 that which they had refrained from doing for more than ninety years? Upon what grounds did Her Majesty's Government defend in the year 1886 a course of conduct in the Behring Sea which she had carefully avoided ever since the discovery of that sea? By what reasoning did Her Majesty's Government conclude that an act may be committed with impunity against the rights of the United States which had never been attempted against the same rights when held by the Russian Empire?

So great has been the injury to the fisheries from the irregular and destructive slaughter of seals in the open waters of the Behring Sea by Canadian vessels, that whereas the Government had allowed one hundred thousand to be taken annually for a series of years, it is now compelled to reduce the number to sixty thousand. If four years of this violation of natural law and neighbor's rights has reduced the annual slaughter of seal by 40 per cent., it is easy to see how short a period will be required to work the total destruction of the fisheries.

The ground upon which Her Majesty's Government justifies, or at least defends the course of the Canadian vessels, rests upon the fact that they are committing their acts of destruction on the high seas, viz, more than 3 marine miles from the shore-line. It is doubtful whether

Her Majesty's Government would abide by this rule if the attempt were made to interfere with the pearl fisheries of Ceylon, which extend more than 20 miles from the shore-line and have been enjoyed by England without molestation ever since their acquisition. So well recognized is the British ownership of those fisheries, regardless of the limit of the 3-mile line, that Her Majesty's Government feels authorized to sell the pearl-fishing right from year to year to the highest bidder. Nor is it credible that modes of fishing on the Grand Banks, altogether practicable but highly destructive, would be justified or even permitted by Great Britain on the plea that the vicious acts were committed more than 3 miles from shore.

There are, according to scientific authority, "great colonies of fish" on the "Newfoundland banks." These colonies resemble the seats of great populations on land. They remain stationary, having a limited range of water in which to live and die. In these great "colonies" it is, according to expert judgment, comparatively easy to explode dynamite or giant powder in such manner as to kill vast quantities of fish, and at the same time destroy countless numbers of eggs. Stringent laws have been necessary to prevent the taking of fish by the use of dynamite in many of the rivers and lakes of the United States. The same mode of fishing could readily be adopted with effect on the more shallow parts of the banks, but the destruction of fish in proportion to the catch, says a high authority, might be as great as ten thousand to one. Would Her Majesty's Government think that so wicked an act could not be prevented and its perpetrators punished simply because it had been committed outside of the 3-mile line?

Why are not the two cases parallel? The Canadian vessels are engaged in the taking of fur seal in a manner that destroys the power of reproduction and insures the extermination of the species. In exterminating the species an article useful to mankind is totally destroyed in order that temporary and immoral gain may be acquired by a few persons. By the employment of dynamite on the banks it is not probable that the total destruction of fish could be accomplished, but a serious diminution of a valuable food for man might assuredly result. Does Her Majesty's Government seriously maintain that the law of nations is powerless to prevent such violation of the common rights of man? Are the supporters of justice in all nations to be declared incompetent to prevent wrongs so odious and so destructive?

In the judgment of this Government the law of the sea is not lawlessness. Nor can the law of the sea and the liberty which it confers and which it protects, be perverted to justify acts which are immoral in themselves, which inevitably tend to results against the interests and against the welfare of mankind. One step beyond that which Her Majesty's Government has taken in this contention, and piracy finds its justification. The President does not conceive it possible that Her Majesty's Government could in fact be less indifferent to these evil results than is the Government of the United States. But he hopes that Her Majesty's Government will, after this frank expression of views, more readily comprehend the position of the Government of the United States touching this serious question. This Government has been ready to concede much in order to adjust all differences of view, and has, in the judgment of the President, already proposed a solution not only equitable but generous. Thus far Her Majesty's Government has declined to accept the proposal of the United States. The President now awaits with deep interest, not unmixed with solicitude, any proposition for reasonable adjustment which Her Majesty's Gov-

ernment may submit. The forcible resistance to which this Government is constrained in the Behring Sea is, in the President's judgment, demanded not only by the necessity of defending the traditional and long-established rights of the United States, but also the rights of good morals and of good government the world over.

In this contention the Government of the United States has no occasion and no desire to withdraw or modify the positions which it has at any time maintained against the claims of the Imperial Government of Russia. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska was part of the Russian Empire. Nor is the Government of the United States disposed to exercise in those possessions any less power or authority than it was willing to concede to the Imperial Government of Russia when its sovereignty extended over them. The President is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pancefote to Mr. Blaine.

WASHINGTON, *February 10, 1890.*

SIR: Her Majesty's Government have had for some time under their consideration the suggestion made in the course of our interviews on the question of the seal fisheries in Behring's Sea, that it might expedite a settlement of the controversy if the tripartite negotiation respecting the establishment of a close time for those fisheries which was commenced in London in 1888, but was suspended owing to various causes, should be resumed in Washington.

I now have the honor to inform you that Her Majesty's Government are willing to adopt this suggestion, and if agreeable to your Government will take steps concurrently with them to invite the participation of Russia in the renewed negotiations.

I have, etc.

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pancefote.

DEPARTMENT OF STATE,
Washington, March 1, 1890.

MY DEAR SIR JULIAN: I have extracted from official documents and appended hereto a large mass of evidence, given under oath by professional experts and officers of the United States, touching the subject upon which you desired further proof, namely, that the killing of seals in the open sea tends certainly and rapidly to the extermination of the species. If further evidence is desired, it can be readily furnished.

I have, etc.

JAMES G. BLAINE.

[Inclosure.*]

From the official report made to the House of Representatives in 1889:

In former years fur-seals were found in great numbers on various islands of the South Pacific Ocean, but after a comparatively short period of indiscriminate slaughter the rookeries were deserted, the animals having been killed or driven from their haunts; so that now the only existing rookeries are those in Alaska, another in the Russian part of Behring Sea, and a third on Lobos Island, at the mouth of the river Plate in South America.

All these rookeries are under the protection of their several governments.

The best estimate as to the number of these animals on the Alaska rookeries places it at about 4,000,000; but a marked diminution of the numbers is noticed within the last two or three years, which is attributed by the testimony to the fact that unauthorized persons during the summers of 1886, 1887, and 1888 had fitted out expeditions and cruised in Alaskan waters, and by the use of fire-arms destroyed hundreds of thousands of these animals without regard to age or sex.

The law prohibits the killing of fur-seals in the Territory of Alaska or the waters thereof, except by the lessee of the seal islands, and the lessee is permitted to kill during the months of June, July, September, and October only; and is forbidden to kill any seal less than one year old, or any female seal, "or to kill such seals at any time by the use of fire-arms, or by any other means tending to drive the seals away from those islands." (Revised Statutes, section 1960.)

Governor Simpson, of the Hudson Bay Company, in his "Overland Journey Round the World," 1841-42, p. 130, says:

"Some twenty or thirty years ago there was a most wasteful destruction of the seal, when young and old, male and female, were indiscriminately knocked in the head. This imprudence, as any one might have expected, proved detrimental in two ways. The race was almost extirpated, and the market was glutted to such a degree, at the rate for some time of 200,000 skins a year, that the prices did not even pay the expenses of carriage. The Russians, however, have now adopted nearly the same plan which the Hudson Bay Company pursues in recruiting any of its exhausted districts, killing only a limited number of such males as have attained their full growth, a plan peculiarly applicable to the fur-seal, inasmuch as its habits render a system of husbanding the stock as easy and certain as that of destroying it."

In the year 1800 the rookeries of the Georgian Islands produced 112,000 fur-seals. From 1806 to 1823, says the *Encyclopædia Britannica*, "The Georgian Islands produced 1,200,000 seals, and the island of Desolation has been equally productive." Over 1,000,000 were taken from the island of Mas-a-Fuera and shipped to China in 1798-99. (Fanning's "Voyages to the South Sea," p. 299.)

In 1820 and 1821 over 300,000 fur-seals were taken at the South Shetland Islands, and Captain Weddell states that at the end of the second year the species had there become almost exterminated. In addition to the number killed for their furs, he estimates that "not less than 100,000 newly born young died in consequence of the destruction of their mothers." (See Elliott's Rep., 1884, p. 118.)

In 1830 the supply of fur-seals in the South Seas had so greatly decreased that the vessels engaged in this enterprise "generally made losing voyages, from the fact that those places which were the resort of seals had been abandoned by them." (Fanning's *Voyages*, p. 487.)

At Antipodes Island, off the coast of New South Wales, 400,000 skins were obtained in the years 1814 and 1815.

Referring to these facts, Professor Elliott, of the Smithsonian Institution, in his able report on the Seal Islands, published by the Interior Department in 1884, says:

"This gives a very fair idea of the manner in which the business was conducted in the South Pacific. How long would our sealing interests in Behring Sea withstand the attacks of sixty vessels carrying from twenty to thirty men each? Not over two seasons. The fact that these great southern rookeries withstood and paid for attacks of this extensive character during a period of more than twenty years speaks eloquently of the millions upon millions that must have existed in the waters now almost deserted by them."

Mr. R. H. Chapel, of New London, Conn., whose vessels had visited all the rookeries of the South Pacific, in his written statement before the Committee on Commerce of the House of Representatives, said:

"As showing the progress of this trade in fur-seal skins, and the abuses of its prosecution, resulting in almost total annihilation of the animals in some localities, it is stated on good authority that, from about 1770 to 1800, Kerguelen Land, in the Indian Ocean, yielded to the English traders over 1,000,000 skins; but open competition swept off the herds that resorted there, and since the latter year hardly 100 per annum

* The report referred to in this memorandum is H. R. Report 3883, Fiftyeth Congress, second session.

could be obtained on all its long coast. Afterwards, *Mas-a-Fuera* Island, near Juan Fernandez, was visited, and 50,000 a year were obtained; but as every one that desired was free to go and kill, the usual result followed—the seals were exterminated at that island, and also at the Galapagos group, near by.

"Falkland and Shetland Islands, and South American coasts, near Cape Horn, came next in order; here the seal were very abundant. It is stated that at the Shetlands alone 100,000 per annum might have been obtained and the rookeries preserved, if taken under proper restrictions; but in the eagerness of men they killed old and young, male and female; little pups a few days old, deprived of their mothers, died by thousands on the beaches, carcasses and bones strewed the shores, and this productive fishery was wholly destroyed. It is estimated that in the years 1821 and 1822 no less than 320,000 of these animals were killed at the Shetlands alone. An American captain, describing in after years his success there, says: 'We went the first year with one vessel and got 1,200; the second year with two vessels, and obtained 30,000; the third year with six vessels, getting only 1,700—all there was left.'

"A small rookery is still preserved at the Lobos Islands, off the river La Plata; this, being carefully guarded under strict regulations by the Government of Buenos Ayres, and rented to proper parties, yields about 5,000 skins per annum. As late as the year 1854, a small island, hardly a mile across, was discovered by Americans in the Japan Sea, where about 50,000 seals resorted annually. Traders visited it, and in three years the club and knife had cleaned them all off. Not 100 a season can now be found there."

Hon. O. A. Williams, of Connecticut, who inherited the whaling and sealing business from his father and grandfather, speaking of the seal in the South Pacific, gave the following testimony before the Congressional committee:

The history of sealing goes back to about 1790, and from that to the early part of this century.

In the earlier period of which I speak there were no seals known in the North Pacific Ocean. Their peculiar haunt was the South Atlantic. They were discovered by Cook, in his voyages, on the island of Desolation; by Widdall, in his voyages to the south pole, on the island of South Georgia and Sandwichland; and by later voyagers, whose names escape me, in the islands of the South Pacific Ocean. When the number of seals on those islands were first brought to the notice of British merchants, they pursued the hunting of these animals on the island of Desolation.

The most authentic authority we have about the matter is derived from reports made by these voyagers as to the number of seals taken from those places, and, although they are not entirely accurate, I think they are fully as accurate as could be expected, considering the lapse of time. On the island of Desolation it is estimated that 1,200,000 fur-seals were taken; from the island of South Georgia a like number were taken, and from the island of *Mas-a-Fuera* probably a greater number were taken. As to the Sandwichland the statistics are not clear, but there can be no doubt that over 500,000 seals were taken from that locality, and in 1820 the islands of South Shetland, south of Cape Horn, were discovered, and from these islands 320,000 fur-seals were taken in two years. There were other localities from which seals were taken, but no others where they were found in such large numbers.

The cause of the extermination of seals in those localities was the indiscriminate character of the slaughter. Sometimes as many as fifteen vessels would be hanging around these islands awaiting opportunity to get their catch, and every vessel would be governed by individual interests. They would kill every thing that came in their way that furnished a skin, whether a cow, a bull, or a middle-grown seal, leaving the young pups just born to die from neglect and starvation. It was like taking a herd of cattle and killing all the bulls and cows and leaving the calves. The extermination was so complete in these localities that the trade was exhausted, and voyages to those places were abandoned. About 1870, nearly fifty years after the discovery of the South Shetland Islands, when the occupation of Alaska by the cession of Russia to the United States of the Behring Sea was brought about—

The CHAIRMAN. I want to interrupt you to ask a question on that point. Were those rookeries in the South Seas never under the protectorate of any government at all?

The WITNESS. Never. I was going to say that when the cession was made by Russia to the United States of this territory, and the subject of the value of fur-seals, or the possible value, was brought to mind, people who had been previously engaged in that business revisited these southern localities after a lapse of nearly fifty years, and no seals were found on the island of Desolation. These islands have been used as the breeding place for sea-elephants, and that creature can not be exterminated on that island, for the reason that certain beaches known as "weather beaches"

are there. The sea breaks rudely upon these beaches, and it is impossible to land upon them. There are cliffs, something like 300 to 500 feet, of shore ice, and the sea-elephant finds a safe resort on these beaches, and still preserves enough life to make the pursuit of that animal worth following in a small way.

I have vessels there, and have had, myself and father, for fifty or sixty years. But this is incidental. The island of South Shetland, and the island of South Georgia, and the island of Sandwichland, and the Diegos, off Cape Horn, and one or two other minor points were found to yield more or less seal. In this period of fifty years in these localities seal life had recuperated to such an extent that there was taken from them in the six years from 1870 to 1876 or 1877 perhaps 40,000 skins.

Q. After they had been abandoned for fifty years?—A. Yes; to-day they are again exhausted. The last year's search of vessels in that region—I have the statistics here of a vessel from Stonington from the South Shetland Islands, reported in 1888, and she procured 39 skins as the total result of search on those islands and South Georgia.

One of my own vessels procured 61 skins, including 11 pups, as the total result of her voyage; and, except about Cape Horn, there are, in my opinion, no seals remaining. I do not think that 100 seals could be procured from all the localities mentioned by a close search. Any one of those localities I have named, under proper protection and restrictions, might have been perpetuated as a breeding place for seals, yielding as great a number per annum as do the islands belonging to the United States.

Now, the trade in those localities is entirely exhausted, and it would be impossible in a century to restock those islands, or bring them back to a point where they would yield a reasonable return for the investment of capital in hunting skins. That, in brief, completes the history of the fur-seal in the South Atlantic Ocean.

The following is from the committee's report:

DANGER OF THE EXTERMINATION OF THE ALASKA ROOKERIES.

We have already mentioned that the present number of seals on St. Paul and St. George islands has materially diminished during the last two or three years. The testimony discloses the fact that a large number of British and American vessels, manned by expert Indian seal hunters, have frequented Behring Sea and destroyed hundreds of thousands of fur-seals by shooting them in the water, and securing as many of the carcasses for their skins as they were able to take on board. The testimony of the Government agents shows that of the number of seals killed in the water not more than one in seven, on an average, is secured, for the reason that a wounded seal will sink in the sea; so that for every thousand seal-skins secured in this manner there is a diminution of seal life at these rookeries of at least 7,000. Added to this is the fact that the shooting of a female seal with young causes the death of both. If the shooting is before delivery, that, of course, is the end of both; if after, the young seal dies for want of sustenance.

During the season of 1885 the number of contraband seal-skins placed on the market was over 13,000; and in 1886, 25,000; in 1887, 34,000; and in 1888 the number of illicit skins secured by British cruisers was less than 25,000, which number would have been largely increased had not the season been very stormy and boisterous. American citizens respected the law and the published notice of the Secretary of the Treasury, and made no attempt to take seals.

From this it appears that, during the last three years, the number of contraband seal-skins placed on the market amounted to over 97,000, and which, according to the testimony, destroyed nearly three-quarters of a million of fur-seals, causing a loss of revenue amounting to over \$2,000,000, at the rate of tax and rental paid by the lessee of the seal islands.

LIMITATION: THE LESSEE FORBIDDEN TO KILL ANY FEMALE SEAL.

The following is an extract from the official report to Congress:

The lessee is permitted to kill 100,000 fur-seals on St. Paul and St. George Islands, and no more, and is prohibited from killing any female seal or any seal less than one year old, and from killing any fur-seal at any time except during the months of June, July, September, and October, and from killing such seals by the use of fire-arms or other means tending to drive the seals from said islands, and from killing any seal in the water adjacent to said islands, or on the beaches, cliffs, or rocks where they haul up from the sea to remain.

Further extract from report:

It is clear to your committee from the proof submitted that to prohibit seal killing on the seal islands and permit the killing in Behring Sea would be no protection: for it is not on the islands where the destruction of seal life is threatened or seals are unlawfully killed, but it is in that part of Behring Sea lying between the eastern and

western limits of Alaska, as described in the treaty of cession, through which the seals pass and repass in going to and from their feeding grounds, some 50 miles south-east of the rookeries, and in their annual migrations to and from the islands.

Extract from report of L. N. Buynitsky, agent of the Treasury in 1870, to Hon. George L. Boutwell, Secretary of the Treasury. It will be observed that this report was made in 1870, before any dispute had arisen with the Canadian sealers.

When the herd has been driven a certain distance from the shore a halt is made, and a sorting of the game as to age, sex, and condition of the fur is effected. This operation requires the exercise of a life-long experience, and is of the utmost importance, as the killing of females, which are easily mistaken for young males, even by the natives, would endanger the propagation of the species.

The same witness, when not an employé of the Treasury, gave testimony on another point in 1889:

Q. Where are those seals born? Where do the female seals give birth to their young?—A. They are born on the rookeries.

Q. Are they an animal or a fish, or what are they; how do you classify them?—A. They are hot-blooded animals born on the land; they are not a fish.

Q. And born on the United States territory, are they?—A. Yes; all those born on the islands of St. Paul and St. George.

Q. That is in United States territory?—A. Yes, sir. "Fisheries" is a misnomer all the way through, and always was.

H. A. Glidden, an agent of the Treasury Department, was on the Pribylov Islands from May, 1882, to June, 1885. In describing before the Congressional committee the mode of killing seals by the lessee of the islands the following occurred:

Q. Do they kill any females?—A. They never kill females. I do not know of but one or two instances in my experience where a female seal was ever driven out with the crowd.

Q. Do you believe seal life can be preserved without Government protection over them?—A. I do not.

W. B. Taylor, a Treasury agent, was asked the same question as to the killing of female seals, and he said that "he had never known but one or two killed by the lessee on the islands, and they by accident." He was further asked as follows:

Q. When they kill the seals in the waters, about what proportion of them do they recover?—A. I do not believe more than one-fourth of them.

Q. The others sink?—A. They shoot them and they sink.

Q. Have you ever noticed any wounded ones that came ashore that have been shot?—A. No, sir; I do not think I did.

The same witness testified as follows:

Q. You do not think, then, that the value of the seal fisheries and the seal rookeries could be preserved under an open policy?—A. No, sir; I do not. I think if you open it they will be destroyed without question.

Q. Do you think it necessary to protect the seals in the sea and down in their feeding grounds in the Pacific, if possible, in order to preserve their full value and the perpetuity of seal life? Do you think they ought to be protected everywhere as well as on the rookeries?—A. Yes, sir; I think they ought to be protected not alone on the rookeries but on the waters of the Behring Sea. I do not think it is necessary to go outside of the Behring Sea, because there is no considerable number of them.

Q. Are they so dispersed in the Pacific that they would not be liable to destruction?—A. Yes, sir; they are scattered very much, and no hunters do much hunting in the Pacific, as I understand. Another reason why they should be protected in all the waters of the Behring Sea is this: A large number of seals that are on the islands of course eat a great many fish every twenty-four hours, and the fish have become well aware of the fact that there are a good many seal on the seal islands, and they stay out a longer distance from the islands, and they do not come near the shore. It becomes necessary for the seal themselves, the cows, to go a good distance into the sea in order to obtain food, and it is there where most of the damage is done by these vessels. They catch them while they are out

Q. So on the rookeries they go out daily for food?—A. The cows go out every day for food. The bulls do not go; they stay on the island all summer. The cows go 10 and 15 miles and even farther—I do not know the average of it—and they are going and coming all the morning and evening. The sea is black with them around about the islands. If there is a little fog and they get out half a mile from shore, we can not see a vessel—100 yards even. The vessels themselves lay around the islands there where they pick up a good many seal, and there is where the killing of cows occurs when they go ashore. I think this is worse than it would be to take 25,000 more seal on the islands than are now taken. I think there is some damage done in the killing and shooting of the cows, and leaving so many young without their mothers.

Q. Is it your opinion that a larger number of seals may be taken annually without detriment to the rookeries?—A. No, sir; I would not recommend that. The time may come, but I think that one year with another they are taking all they ought to take, for this reason:

I believe that the capacity of the bull seal is limited, the same as any other animal, and I have very frequently counted from thirty to thirty-five and even, at one time, forty-two cows with one bull. I think if there were more bulls there would be less cows to one bull, and in that way the increase would be greater than now. While the number of seal in the aggregate is not apparently diminished, and in fact there is undoubtedly an increase, yet if you take any greater number of seal than is taken now, this ratio of cows to one bull would be greater, and for that reason there would be a less number of young seals, undoubtedly. I look upon the breeding of the seal as something like the breeding of any other animal, and that the same care and restriction and judgment should be exercised in this breeding.

The same witness testified as follows:

Q. What will be the effect upon the seal rookeries if this surreptitious and unlawful killing in the Behring Sea is to be permitted?—A. In my judgment it would eventually exterminate the seal.

Mr. U. A. Williams, of Connecticut, before referred to, testified as follows:

Q. I would like to know—I do not know that it is just the proper time—but I would like to get the idea of those conversant with the habits and nature of the seal as to what their opinion is upon the effect of the indiscriminate killing of them while they are coming to and going from the islands.—A. That is a question which I think most any of us here can answer. If you note the conformation of the Aleutian Islands, which form a wall, and note the gaps through which the seals come from the Pacific Ocean seeking the haunt on these islands, that is the whole point. When they come through these various passes, generally through the Oomnak Pass, the sea is reasonably shallow, and the cows come laden with pups, waiting until the last moment in the water to go ashore to deliver, because they can roll and scratch and help themselves better than if they haul out when heavy with pup, so they stay in the water playing about until their instinct warns them it is time to go ashore, and during that time they are massed in great quantities in the sea.

Q. Now, in that view of it, the destruction of them there is almost practically the same as the destruction of them on the islands?—A. Yes, sir.

Q. And the conditions are as bad?—A. Yes, sir; and often worse, for this reason: If you kill a pup you destroy a single life, but in killing a cow you not only destroy the life that may be, but the source from which life comes hereafter, and when they are killed there in the water by a shot-gun or a spear the proportion saved by the hunters is probably not one in seven. That was their own estimate: that out of eight shots they would save one seal and seven were lost. If they were killed on the land, those seven would go towards filling out their score.

The same witness also testified as follows:

Q. Have you instructed your agents to comply strictly with the laws and regulations of the Treasury Department?—A. In every case; yes.

Q. Do you kill seals with fire-arms at the islands, or do you prohibit that?—A. No, sir; never; it is not allowed by the act.

Q. Do you kill the female seals or allow them to be killed?—A. Never with our knowledge.

Q. Do you kill any during the month of August for their skins?—A. Not a seal; no.

Q. Do you kill any seals under two years old?—A. Not that we are aware of.

The same witness further testified:

Q. Now, I would like to have your opinion as to the insufficiency of the present measures taken by the Government for the protection of the rookeries, and your opinion as to whether any additional safeguards are necessary for their protection.—

A. That the present measures are somewhat insufficient is shown by the fact that for the last three or four years there have been increased depredations annually upon the rookeries. More seals are taken within the limits of the Behring Sea. Formerly seals were only taken outside of Behring Sea, as they passed up to British Columbia, and off the mouth of Puget Sound, in the waters of the Pacific Ocean. That was a legitimate place to take them, and one against which no objection could be raised. Seals which come up that way enter through the passages of the Aleutian Islands nearest to the mainland, and it has always been the custom in British Columbia and our sound to intercept the seal and get what they could. Within the last two or three years marauders have followed them through the passages into Behring Sea, and have with guns and spears taken the seals as they lay upon the water, as I stated before, waiting to haul ashore and have their pups. The cows are heavy with pup, and they do not like to go ashore until the last moment, and so they lie there in the water, and this affords an opportunity for these marauders to shoot and spear them. This is done by gangs of Indians which they have. They hire gangs of Indians and take them with them. The effects of this shooting is not alone upon the seals which are at that point, but also upon those all around, and it startles them and raises a suspicion in their minds and there is a general feeling of disturbance, such as you notice among cattle when bears are about or something of that kind.

And again:

Q. Now, Mr. Williams, should it be finally ascertained and considered by our Government that under the treaty of cession by which we acquired Alaska from Russia, and under the laws of nations, the United States does possess and has absolute dominion and jurisdiction over Behring Sea and the waters of Alaska, would you think it would be a wise policy to adhere to and maintain that jurisdiction and dominion complete, or would it be wiser to declare it the high sea in the legal sense?—A. In the light of to-day I should say, keep what you have got.

Q. Hold it as a closed sea?—A. Fisheries within those limits are yet to be developed, and it would seem to be very unwise to open up possible fishery contentions which are very likely to arise by such a course.

Q. You think that it would be, then, the wiser policy, to maintain such jurisdiction and dominion as we have, and to concede to the vessels of other nations such rights as are not inconsistent with the interests which our nation has there and which need protection?—A. Exactly that; the right of transit through the sea wherever they please, but positive protection to seal life.

Q. You do not think it would be wise to grant anything else?—A. No, sir; not at all.

Q. And in no case to surrender the power of policing the sea?—A. No, sir; under no circumstances.

Q. Could that power and jurisdiction be surrendered and yet preserve this seal life on these rookeries and the value of our fisheries that may be developed there?—A. Only with very great risk; because, if that right is surrendered, and thereby the right to police the sea, the depredations that are made upon the seal wherever they may be found, wherever men thought they could carry them out without being taken in the act would be carried out. So it would be difficult in regard to the fisheries. Wherever they could kill these seals they certainly would be there, and it would be impossible to prevent them.

In the statements and statistics relative to the fur-seal fisheries, submitted by C. A. Williams, in 1888, to the Committee of Congress on Merchant Marine and Fisheries, appears the following:

Examination of the earliest records of the fur-seal fishery shows that from the date of man's recognition of the value of the fur the pursuit of the animal bearing it has been unceasing and relentless. Save in the few instances to be noted hereafter, where governments have interposed for the purpose of protecting seal life, having in view benefits to accrue in the future, the animal has been wantonly slaughtered, with no regard for age, sex, or condition. The mature male, the female heavy with young, the pup, dependent for life on the mother, each and all have been indiscriminately killed or left to die of want. This cruel and useless butchery has resulted in complete extermination of the fur-seal from localities which were once frequented by millions of the species; and, so far as these localities are concerned, has obliterated an industry which a little more enlightened selfishness might have preserved in perpetuity to the great benefit of all ranks of civilized society. Nothing less than stringent laws, with will power to enforce them against all violators, can preserve for man's benefit the remnant of a race of animals so interesting and so useful.

The most valuable "rookery," or breeding place, of these animals ever known to man is now in the possession of the United States. How it has been cared for in former years and brought to its present state of value and usefulness will be shown later on.

But the matter of its preservation and perpetuation intact is the important question of the moment, and that this question may be considered intelligently the evidence is here presented of the wanton destruction that has befallen these animals when left unprotected by the law to man's greed and selfishness, which, it is fair to say, is all that could be expected from the unlicensed hunter, whose nature seeks individual and immediate gain, with no regard for a future in which he has no assurance of personal advantage.

The following statistics are gathered from the journals of early navigators, and such commercial records as are now available are submitted :

Kerguelen Land.—An island in southern Indian Ocean, discovered about 1772. The shores of this island were teeming with fur-seal when it first became known. Between the date of its discovery and the year 1800 over 1,200,000 seal skins were taken by the British vessels from the island, and seal life thereon was exterminated.

Crozetts.—The Crozett Islands, in same ocean and not far distant, were also visited and hunted over and the seal life there totally exhausted.

Mas-a-Fuera.—An island in southern Pacific Ocean, latitude 38° 48' south, longitude 80° 34' west, came next in order of discovery, and from its shores in a few years were gathered and shipped 1,200,000 fur-seal skins.

Delano, chapter 17, page 306, says of *Mas-a-Fuera* :

"When the Americans came to this place in 1797 and began to make a business of killing seals, there is no doubt but there were 2,000,000 or 3,000,000 of them on the island. I have made an estimate of more than 3,000,000 that have been carried to Canton from thence in the space of seven years. I have carried more than 100,000 myself and have been at the place when there were the people of fourteen ships or vessels on the island at one time killing seals."

South Shetlands.—In 1821-23 the South Shetland Islands, a group nearly south from Cape Horn, became known to the seal hunters, and in two years over 320,000 seals were killed and their skins shipped from these islands.

South Georgia.—Later still, seal were found on the island of South Georgia, South Atlantic Ocean, and from this locality were obtained over 1,000,000 of fur-seal, leaving the beaches bare of seal life.

Cape Horn.—From the coasts of South America and about Cape Horn many thousands of fur-seal have been taken, and of the life once so prolific there nothing is now left save such remnants of former herds as shelter on rocks and islets almost inaccessible to the most daring hunter.

This record shows the nearly complete destruction of these valuable animals in southern seas. Properly protected, Kerguelen Land, Mas-a-Fuera, the Shetlands, and South Georgia might have been hives of industry, producing vast wealth, training-schools for hardy seamen, and furnishing employment for tens of thousands in the world's markets where skins are dressed, prepared, and distributed. But the localities were no man's land, and no man cared for them or their products save as through destruction they could be transmitted into a passing profit.

The seal life of to-day available for commercial purposes is centered in three localities :

(1) The Lobos Islands, situated in the mouth of the river La Plata, owned and controlled by the Uruguay Republic, and by that Government leased to private parties for the sum of \$6,000 per annum and some stipulated charges. The annual product in skins is about 12,000. The skins are of rather inferior quality. Insufficient restrictions are placed upon the lessees in regard to the number of skins permitted to be taken annually, consequently there is some waste of life; nevertheless the measure of protection allowed has insured the preservation of the rookery, and will continue so to do.

(2) Komandorski Couplet, which consists of the islands of Copper and Behring, near the coast of Kamchatka, in that portion of Behring Sea pertaining to Russia. These islands yield about 40,000 skins per annum, of good quality, and are guarded by carefully restrictive rules as to the killing of seal, analogous to the statutes of the United States relative to the same subject. The right to take seals upon them is leased by the Russian Government to an association of American citizens, who also hold the lease of the islands belonging to the United States, and are thus enabled to control and direct the business in fur-seal skins for the common advantage and benefit of all parties in interest. These islands can hardly be said to have been "worked" at all for salted seal-skins prior to the cession of Alaska by Russia to the United States, and the United States Government now profits by the industry to the extent of the duty of 20 per cent. collected on the "dressed skins" returned to this country from the London market. From 1873 to 1887, inclusive, this return has been 121,275 skins.

(3) The Pribylov group consists of the islands of St. Paul and St. George, and is a Government reservation in that part of Behring Sea ceded to the United States by Russia, together with and a part of Alaska. So exhaustive an account of these islands and their seal life has been given by Mr. H. W. Elliott, special agent of

Treasury Department in 1874, and since intimately connected with the Smithsonian Institution, which account has been made a part of Tenth Census report, that it would be intrusive here to attempt to supplement aught, and therefore only generalizations based on said report and such statements of life and procedure on the islands to-day are presented as may be pertinent in this connection.

In an article on fur-seals, which appeared in *Land and Water*, July 14, 1877, Mr. Henry Lee (Englishman), F. L. S., says:

It has been stated that during a period of fifty years not less than 20,000 tons of sea-elephant's oil, worth more than £1,000,000, was annually obtained from New Georgia, besides an incalculable number of fur-seal skins, of which we have no statistics. Some idea may be had of their numbers in former years when we learn that on the island of Mas-a-Fuera, on the coast of Chili (an island not 25 miles in circumference), Captain Fanning, of the American ship *Betsy*, obtained in 1798 a full crop of choice skins and estimated that there were left on the island at least 500,000 seals. Subsequently there were taken from this island little short of a million skins. The seal catching was extensively prosecuted there for many years, the sealing fleet on the coast of Chili alone then numbering thirty vessels. From Desolation Island, also discovered by Cook, and the South Shetlands, discovered by Weddell, the number of skins taken was at least as great; from the latter alone 320,000 were shipped during the two years 1821 and 1822. China was the great market to which they were sent, and there the price for each skin was from \$4 to \$6. As several thousand tons of shipping, chiefly English and American, were at that time employed in fur-seal catching, the profits of the early traders were enormous.

Does the reader ask what has become of this extensive and highly remunerative southern fur trade? It has been all but annihilated by man's grasping greed, reckless improvidence, and wanton cruelty. The "woeful want" has come that "woeful waste" has made. Without thought of the future the misguided hunters persistently killed every seal that came within their reach. Old and young, male and female, were indiscriminately slaughtered, in season and out of season, and thousands of little pups not thought worth the trouble of knocking them on the head were left to die of hunger alongside the flayed and gory carcasses of their mothers. Every coast and island known to be the haunt of the seals was visited by ship after ship, and the massacre left unfinished by one gang was continued by the next comers and completed by others until, in consequence of none of the animals being left to breed, their number gradually diminished, so that they were almost exterminated, only a few stragglers remaining where millions were once found. In some places where formerly they gathered together in such densely packed crowds upon the shore that a boat's crew could not find room to land till they had dispersed them for a space with oars and boat-hooks, not one fur-seal was to be found even so long ago as 1835.

Dr. H. H. McIntyre, superintendent of the seal fisheries of Alaska for the lessees, testified before the Congressional committee as follows:

Q. What proportion of the seals shot in the water are recovered and the skins taken to market?—A. I think not more than one-fifth of those shot are recovered. Many are badly wounded and escape. We find every year embedded in blubber of animals killed upon the islands large quantities of bullets, shot, and buckshot. Last year my men brought to me as much as a double handful of lead found by them embedded in this way.

Q. I want to ask you whether or not the three-year-old seals, or many of them, which should have returned this year did not return because they had been killed?—A. That seems to be the case. The marauding was extensively carried on in 1885 and 1886, and in previous years, and of course the pups that would have been born from cows that were killed in 1885, or that perished through the loss of their mothers during that year, would have come upon the islands in 1888, and we should have had that additional number from which to make our selection this year. The deficiency this year is attributed to that cause—to the fact that the cows were killed. And I would say further that if cows are killed late in the season, say in August, after the pups are born, the latter are left upon the island deprived of the mother's care, and of course perish. The effect is the same whether the cows are killed before or after the pups are dropped. The young perish in either case.

Q. It being conceded that the islands are their home, and no one being interested other than the American and Russian Governments, there would be no special reason why other nations would object?—A. Only the Governments of the United States and England are interested in the Alaskan seal fisheries to any great extent. The United States is interested in it as a producer of raw material, and England as a manufact-

urer of furs. If these two nations were agreed that seal life should be protected, I think there would be no trouble in fully protecting it. It is a question of quite as much interest to England as to the United States, for she has a large number of skilled workmen and a large amount of capital engaged in this industry.

Professor Elliott, of the Smithsonian Institution, who has spent some time in scientifically examining the seal islands and the habits of the seal, thus describes the killing power of the seal hunter at sea:

His power to destroy them is also augmented by the fact that those seals which are most liable to meet his eye and aim are the female fur-seals, which, heavy with young, are here slowly nearing the land, soundly sleeping at sea by intervals, and reluctant to haul out from the cool embrace of the water upon their breeding grounds until that day, and hour even, arrives which limits the period of their gestation.

The pelagic sealer employs three agencies with which to secure his quarry, viz: He sends out Indians with canoes from his vessel, armed with spears; he uses shot-guns and buckshot, rifles and balls, and last, but most deadly and destructive of all, he can spread the "gill-net" in favorable weather.

With gill-nets "underrun" by a fleet of sealers in Behring Sea, across these converging paths of the fur-seal, anywhere from 10 to 100 miles southerly from the Pribylov group, I am moderate in saying that such a fleet could utterly ruin and destroy those fur-seal rookeries now present upon the seal islands in less time than three or four short years. Every foot of that watery roadway of fur-seal travel above indicated, if these men were not checked, could and would be traversed by those deadly nets; and a seal coming from or going to the islands would have, under the water and above it, scarcely one chance in ten of safely passing such a cordon.

Open those waters of Behring Sea to unchecked pelagic sealing, then a fleet of hundreds of vessels, steamers, ships, schooners, and what not, would immediately venture into them, bent upon the most vigorous and indiscriminate slaughter of these fur-seals; a few seasons of greediest rapine, then nothing would be left of those wonderful and valuable interests of our Government which are now so handsomely embodied on the seal islands; but which, if guarded and conserved as they are to-day, will last for an indefinite time to come as objects of the highest commercial good and value to the world, and as subjects for the most fascinating biological study.

Shooting fur-seals in the open waters of the sea or ocean with the peculiar shot and bullet cartridges used involves an immense waste of seal life. Every seal that is merely wounded, and even if mortally wounded at the moment of shooting, dives and swims away instantly, to perish at some point far distant and to be never again seen by its human enemies; it is ultimately destroyed, but it is lost, in so far as the hunters are concerned. If the seal is shot dead instantly, killed instantly, then it can be picked up in most every case; but not one seal in ten fired at by the most skillful marine hunters is so shot, and nearly every seal in this ten will have been wounded, many of them fatally. The irregular tumbling of the water around the seal and the irregular heaving of the hunter's boat, both acting at the same moment entirely independent of each other, making the difficulty of taking accurate aim exceedingly great and the result of clean killing very slender.

Mr. George R. Tingle, United States Treasury agent in charge of the fur-seal islands from April, 1885, until August, 1886, testified as follows:

Q. It is Mr. McIntyre's opinion that they have not only not increased, but have decreased?—A. There has been a slight diminution of seals, probably.

Q. To what do you attribute that?—A. I think there have been more seals killed in the sea than ever before by marauders. I estimated that they secured 30,000 skins in 1887, and in order to secure that number of skins they would have had to kill half a million seals, while this company in taking 100,000 on shore destroyed only 31 seals. Those were killed by accident. Some times a young seal, or one not intended to be killed, pops up his head and gets a blow unintentionally.

Q. The waste of seal life was only 53 in 1887?—A. Yes, sir; in securing 100,000 skins, while these marauders did not kill last year less than 500,000. The logs of marauding schooners have fallen into my hands, and they have convinced me that they do not secure more than one seal out of every ten that they mortally wound and kill, for the reason that the seals sink very quickly in the water. Allowing one out of ten, there would be 300,000 that they would kill in getting 30,000 skins. Two hundred thousand of those killed would be females having 200,000 pups on shore. Those pups would die by reason of the death of their mothers, which added to the 300,000, makes half a million destroyed. I am inclined to think, because the seals show they are not increasing, or rather that they are at a stand-still, that more than 300,000 are killed by marauders.

Q. You are of the opinion, then, that the marauders are killing more seals than the

Alaska Commercial Company?—A. At least five or six times as many as the Alaska Commercial Company are killing.

Q. What will be the effect if more stringent measures are not taken to protect the seals by the Government?—A. If more stringent measures are not taken, it is only a question of time when these seals will be driven ultimately to seek some other home where they will not be molested. They will not continue to be harassed; and, if this marauding is continued, they will, in my opinion, either be gradually exterminated or will leave the islands permanently and land at some other place. They may go on the Russian side.

Q. Will marauding increase if the Government does not take steps to prevent it?—A. I think so.

Q. Is it practicable to prevent it?—A. Yes, sir. If we did not allow these cheeky, persistent, insolent, British Columbia seamen to go there and defy the United States and its authorities, it would very soon be stopped. When our revenue cutters seize the British schooners, the captains are very insolent and defiant, and claim that they have a strong government at their backs. I am now referring particularly to Captain Warner, of the *Dolphin*. He said in 1887, when captured, "We have got a strong government at our backs, and we will fight you on this question." "Very well," says Captain Shepherd, "I have got a strong government at my back, and I am going to do my duty. My government sends me to protect these seal rookeries. I am charged by this administration to enforce the law, and I will seize all marauders."

Q. You were speaking a while ago in regard to the amount of seal life destroyed by marauders, and that a captain had given the number of seals destroyed. Have you seen any of the log books of those vessels?—A. Yes, sir.

Q. Will you state what you remember with regard to the number of seals lost or captured by those vessels?—A. I remember reading the log-book of the *Angel Dolly*, which I captured. There was an entry in that log-book that read as follows: "Issued to-day to my boats, three hundred rounds of ammunition. At night they came in with the ammunition all expended, and one seal-skin."

Q. They had shot three hundred rounds of ammunition?—A. Yes, sir. Another entry I saw was: "Seven seals shot from the deck, but only secured one." All lost but one. Another entry: "It is very discouraging to issue a large quantity of ammunition to your boats, and have so few seals returned." An entry was made in another place, where he gave it as his opinion that he did not secure one seal-skin out of every fifty seals wounded and killed.

Q. Have you seen seal-skins upon the island that had been shot?—A. Very often. We gather handfuls of shot every season.

Q. Does that injure the market value of the skins?—A. Undoubtedly. Any hole is an injury to the skin.

Extract from Mr. Tingle's report to the Treasury Department.

I am now convinced from what I gather, in questioning the men belonging to captured schooners and from reading the logs of the vessels, that not more than one seal in ten killed and mortally wounded is landed on the boats and skinned; thus you will see the wanton destruction of seal life without any benefit whatever. I think 30,000 skins taken this year by the marauders is a low estimate on this basis; 300,000 fur-seals were killed to secure that number, or three times as many as the Alaska Commercial Company are allowed by law to kill. You can readily see that this great slaughter of seals will, in a few years, make it impossible for 100,000 skins to be taken on the islands by the lessees. I earnestly hope more vigorous measures will be adopted by the Government in dealing with these destructive law-breakers.

William Gavitt, an agent of the United States Treasury, gave this testimony.

Q. I understand you to say—for instance, taking 1887 or 1888—that the 100,000 seals taken upon the islands, and the 40,000 taken and killed in the water, if no greater amount was taken, that there would be no perceptible diminution in the number of seal; that by the natural increase the company might take 40,000 more than now, if it were not for the depredations?—A. I had in mind an average between 25,000 killed in 1888 and about 40,000 in 1887.

Q. What I want to know is this: Is it your opinion that the number taken in the sea, when they are on the way from the islands to the feeding grounds, have a tendency to demoralize the seal and to break up their habits, their confidence, etc.?—A. It would be likely to do it. They are very easily frightened, and the discharge of fire-arms has a tendency to frighten them away.

By Mr. MACDONALD:

Q. No seals are killed by the company in this way?—A. No, sir; they are all killed on the islands with clubs.

Jacob H. Moulton, an agent of the Government, testified:

Q. Do you think it essential to the preservation of seal life to protect the seal in the waters of Alaska and the Pacific?—A. There is no doubt about it.

Q. The herd could be exterminated without taking them upon the islands?—A. They could be exterminated by a system of marauding in the Behring Sea, but I think the number killed along the British Columbia coast did not affect the number we were killing on the islands at that time, because there was apparently an increase during these years. There had been for five or six years up to that time. Since that time in Behring Sea the seal have been gradually decreasing.

Q. You think their decrease is attributable to unlawful hunting in Behring Sea?—A. There is no doubt of that.

Q. As a result of your observation there, could you suggest any better method of preserving seal life in Behring Sea than that now adopted?—A. Not unless they furnished more revenue vessels and men-of-war.

Q. So as to patrol the sea closely?—A. I think so. I do not think the seals scatter much through any great distance during the summer season, although very late in the summer the smaller seals arrive. The females, after giving birth to their young, scatter out in Behring Sea for food. We know they leave the islands to go into the water, because they are coming and going. They suckle their young the same as most animals.

Q. Lawless hunters kill everything they find, I believe, females or not?—A. Yes, sir.

Q. When a female is nursing her young and goes out for food and is killed or wounded, that results also in the death of her young?—A. Yes, sir. As her young does not go into the water, it does not do anything for some time, and can not swim and has to be taught.

Q. The seals are born upon those islands?—A. Yes, sir; they come there for that purpose. They come there expressly to breed, because if they dropped their young in the water the pup would drown.

Q. Do you think the value of the seals justifies the policy that the Government pursues for their preservation and protection?—A. Yes, sir; I do.

Q. And under a rigidly enforced system protecting seal life in the waters of these seas, do you think the herd could be materially increased?—A. I think it would. I think there is no doubt but what it would.

Edward Shields, of Vancouver Island, a sailor on board the British schooner *Caroline*, engaged in seal hunting in Behring Sea in 1886, testified, after the vessel was seized, that the 686 seals taken during the whole time they were cruising in the open sea were chiefly females.

Mr. H. A. Glidden, Treasury agent, recalled, testified as follows:

Q. From the number of skins taken you estimated the number killed?—A. That season I know there were thirty-five vessels in the sea, and we captured fifteen vessels. The catches of the vessels were published in the papers when they arrived home and averaged from 1,000 to 2,500 skins each.

Q. You estimate, then, that during the season 40,000 skins were taken? In killing them in the open sea they do not recover every seal they kill?—A. No, sir; I do not think they do. In fact, I know they do not, judging from the amount of shot and lead taken from the seals that are afterwards killed on St. Paul and St. George Islands.

Q. So that the destruction of the seals in the open sea would be much in excess of the number taken, probably?—A. I have no very accurate information on which to base an opinion, but I should judge that they lost from 40 to 60 per cent. of them. I saw a good many shot from the boats as I was approaching, and think they lost two or three out of five or six that I saw them shoot at.

Q. From your observations have you any recommendations or suggestions to offer, the adoption of which would lead to the better preservation of seal life in these waters than is now provided by law?—A. There is a difference of opinion as to the construction of the law. I firmly believe that the Government should either protect the islands and water in the eastern half of Behring Sea or throw up their interest there. If the Behring Sea is to be regarded as open for vessels to go in and capture seals in the water, they would be exterminated in a short time.

Sir Julian Pauncefote to Mr. Blaine.

[Extract.]

BRITISH LEGATION,
Washington, D. C., March 9, 1890.

DEAR MR. BLAINE: I have the pleasure to send you herewith the memorandum prepared by Mr. Tupper on the seal fishery question, to which he has appended a note by Mr. Dawson, an eminent Canadian official.

Believe me, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

Synopsis of reply to Mr. Blaine's letter to Sir Julian Pauncefote, of March 1, 1890.

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[Inclosure 2.]

Mr. Tupper to Sir Julian Pauncefote.

THE ARLINGTON,
Washington, March 8, 1890.

DEAR SIR JULIAN: I have the honor to inclose herewith a memorandum prepared by me in reply to the memorandum sent to you by Mr. Blaine, and which you handed to me upon the 3d instant.

I send you a copy for yourself, one for Mr. Blaine, and one for M. de Struvé, the Russian ambassador.

I also have the honor to forward herewith a valuable paper upon the subject, prepared hurriedly by the assistant director of the geological survey of Canada, George Dawson, D. S., F. G. S., F. R. S. C., F. R. M. S.

I may add that Dr. Dawson was in charge of the Yukon expedition in 1887.

Copies of his paper are also inclosed for Mr. Blaine and M. de Struvé.

I am, etc.,

CHARLES H. TUPPER.

[Inclosure 3.]

Memorandum on Mr. Blaine's letter to Sir Julian Pauncefote, dated March 1, 1890.

In the appendix to Mr. Blaine's letter of March 1, on the 3d page, is an extract from a report to the House of Representatives, as follows:

"In former years fur-seals were found in great numbers on various islands of the South Pacific Ocean, but after a comparatively short period of indiscriminate slaughter the rookeries were deserted, the animals having been killed or driven from their haunts."

While it is admitted that indiscriminate slaughters upon the rookeries are most injurious to the maintenance of seal life, it is denied that in the history of the fur-seal industry any instance can be found where a rookery has ever been destroyed, depleted, or even injured by the killing of seals at sea only.

Mr. Elliott, who is quoted by Mr. Blaine, admits that the rookeries in the South Pacific withstood attacks of the most extensive and destructive character for twenty years, when young and old males and females were indiscriminately knocked on the head upon their breeding grounds; and Mr. Clark (H. R. Report 3883, 50th Cong., 2d sess., p. 91) tells us that in 1820 thirty vessels on the islands (South Shetlands) took in a few weeks 250,000 skins, while thousands were killed and lost. In 1821 and 1822 320,000 skins were taken and 150,000 young seals destroyed. None of these islands, however, were ever frequented by the millions which have been found on the Pribylov group for over twenty years.

"These islands constitute the most valuable rookery or breeding place of these animals ever known to man." (H. R. Report 3883, 50th Cong., pp. 111, 112, Hon. C. A. Williams's written statement.)

Professor Elliott (in his evidence, p. 142*) mentions one person who, when with him at the islands, estimated the number at 16,000,000.

The report of the Congressional committee on the Alaska seal fisheries states that, indiscriminate slaughter in the early part of the nineteenth century caused a desertion of the rookeries, and it goes on to say that in 1820 and 1821 300,000 were taken in an indiscriminate fashion at the South Shetlands, and, at the end of the second year, the species had there been almost exterminated.

The Hon. C. A. Williams, whose evidence is cited and relied upon by Mr. Blaine, supports this view (see p. 111, H. R. Report No. 3883, 50th Cong.); but, as a matter of fact, while seals are admittedly not so plentiful in South Shetlands as heretofore, owing to wholesale destruction on the breeding grounds, so prolific are they that, in 1872, 8,000 skins of "the choicest and richest quality were obtained from these islands. In the next season 15,000 skins were taken there, and in 1874 10,000 skins, and from 1870 to 1880 the sealing fleet brought home 92,756 fur-seal skins from the South Shetlands and the vicinity of Cape Horn and Terre del Fuego." (A. Howard Clark, p. 402, Commission of Fisheries, Fishery Industries United States, sec. 5, vol. II, 1887.) In this regard, it may here be noted that this extract refers only to the catch of sealers which fitted out at New London, Conn., and does not embrace the operations of sealers from other countries.

Mr. Clark describes the manner in which the seals at Mas-a-Fuera were attacked. At page 407 of the article above cited he points out that between the years 1793 and 1807 3,500,000 seals were obtained from this island by English and American vessels, and in 1824 the island was "almost abandoned by these animals." Mr. Clark also shows that in 1797 there were only 2,000,000 on the islands, and yet in seven years more than 3,000,000 were carried from the islands to Canton, China.

Mention is made, too, of fourteen ships' crews on the island at one time killing seals. At page 408 mention is made of from twelve to fifteen crews on shore at the same time (American and English), and that "there were constantly more or less of ships' crews stationed here for the purpose of taking fur-seals' skins"—from 1793 to 1807.

It is contended by the Canadian Government that a reference to the history of this island is entirely beside the contention on the part of the United States that it is necessary to keep sealing craft hundreds of miles away from rookeries in order to preserve the seal life on the breeding grounds.

The cause of injury is the same in all the cases mentioned, and Mr. Chapol, in the appendix to Mr. Blaine's letter, now under consideration, at page 5 well says:

"It is stated that at the Shetlands alone [which never equaled the present condition of the Pribylov group, mentioned by Hon. C. A. Williams, already quoted] 100,000 per annum might have been obtained and the rookeries preserved if taken under proper restrictions; but, in the eagerness of men, old and young male and female seals were killed, and little pups a few days old, deprived of their mothers, died by thousands on the beaches—[it may here be observed that not a case of dead pups was ever found on the Pribylov group, so far as the reports on the islands show]—carcasses and bones strewn on the shores."

* The evidence referred to in this memorandum will be found in H. R. Report 3883, Fiftieth Congress, second session.

This statement, cited in the United States' case, is direct authority for the Canadian contention. It illustrates three important points:

(1) That indiscriminate slaughter on the breeding grounds is injurious and in time destructive.

(2) That when the mothers are killed, the young pups, dying in consequence, are found on the island.

(3) That regulations of the number to be killed on the island, with careful supervision, will maintain the rookeries independently of prohibiting sealing in the waters.

The report of the House of Representatives states:

"The only existing rookeries are those in Alaska, another in the Russian part of Behring Sea, and a third on Lobos Island, at the mouth of the river Plate, in South America."

The statement is incorrect. Important omissions occur, since the cases left out, when examined, show that, notwithstanding all of the extraordinary and indiscriminate slaughter of past years, it is possible, by careful supervision of the rookeries alone, and of the seals while on land, to revive, restore, and maintain lucrative rookeries.

Quoting from an extract from a Russian memorandum respecting the hunting of seals, communicated by M. de Staël to the Marquis of Salisbury, and dated July 25, 1888, it is found that other rookeries are by no means deserted. The extract reads as follows:

"The places where fur-seal hunting is carried on may be divided in two distinct groups. The first group would comprise Pribylov Islands, Behring Sea, 100,000 killed in 1885; Commander Islands (Behring and Copper Islands, 45,000; Seal Islands, Okhotsk Sea, 4,000); total, 149,000.

"The second group, the sea near the coast of Victoria, 20,000; Lobos Islands, 15,000; islands near Cape Horn and the South Polar Sea, 10,000; islands belonging to Japan, 7,000; Cape of Good Hope, 5,000; total, 57,000."

An important omission is the case of Cape of Good Hope, in reference to which the committee of the House of Representatives, previous to their report, had been informed (see H. R. Report 3883, 50th Cong., 2d sess., p. 114) that from the *Cape of Good Hope* Islands, under protection of the Cape Government, a yearly supply of 5,000 to 8,000 skins is derived, and that from Japan, it was stated, sometimes 15,000 and sometimes 5,000 a year are received. These islands are now rigidly protected by the governments of the countries to which they belong; but neither does the Government of the Cape, of Japan, nor of Uruguay, in case of the Lobos Islands, consider it necessary to demand the restriction of the pursuit of seals in the open sea.

United States' vessels have visited the islands off the Cape of Good Hope from 1800 to 1835, and have taken on some days 500 to 700 skins, securing several thousands of skins annually. In 1830 Captain Gurdon L. Allyn, of Gale's Ferry, Conn., mentions finding a thousand carcasses of seals at one of the islands, the skins of which had been taken. He lauded and took seals in considerable numbers. He was again on a sealing voyage on this coast in 1834, and shot seals on the rookeries.

In 1828 a plague visited these rookeries, and 500,000 seals perished during the plague (Clark in the report of the U. S. Com. of Fish and Fisheries, 1887, sec. v, vol. ii, pp. 415, 416), and yet to-day we find a renewal of the industry by regulations applied *solely* to the rookeries, and *exclusive* of the deep sea operations.

Upon page 7 of the appendix now under review, the report of the Congressional committee on Alaska seal fisheries refers to testimony of United States Government agents regarding the number of seals shot and not secured, and a calculation is referred to, to the effect that one in every seven is alone secured by the hunter who follows seals on the sea. The experience of Canadian hunters is directly opposed to this theory, and shows that a loss of 6 per centum is all that ever takes place, while Indian hunters seldom lose one. Solemn declarations to this effect have been made under the Canadian statute relating to extrajudicial oaths.

In confirmation of this, reference may be had to Mr. H. W. Elliott, in the United States Fish Commissioner's report, vol. ii, sec. v, p. 489, where he says:

"The Aleuts fire at the otter at 1,000 yards range, and that when hit in the head nine times out of ten the shot is fatal."

In the case of hunting the seals, the practice of the white hunters, all expert shots, is to paddle up to the seal while asleep in the water, shoot it in the head, and at once haul it into the boat; while the Indians approach it in a canoe and spear the seal, the head of the spear separating itself and being attached to a rope by which the seal is dragged into the canoe.

Reference is made on page 4 of the appendix to Mr. Blaine's letter to the limitations in the lease of 1870. These conditions, it is contended, are most inconsistent with the present view of the United States regarding the danger to the preservation of seal life. With respect to this the following facts should be carefully noted:

(1) Up to 1862 no law in Russia existed prohibiting or forbidding the killing of

seals, and in that year an inoperative law was promulgated. (See Russian memorandum, Mr. de Staël to Lord Salisbury, 25 July, 1888.)

Mr. McIntyre, a special agent of the Treasury Department (H. R. Ex. Doc. 36, 41st Cong., 2d. sess., page 18), records the catch taken from the Pribylov Islands under the Russian-American company as follows:

Table showing the number of fur-seals taken by the Russians on St. Paul and St. George Islands from 1817 to 1860.

Year.	Number of seals.	Year.	Number of seals.
1817.....	60,188	1840.....	*8,000
1818.....	59,856	1841.....	*8,000
1819.....	52,225	1842.....	10,370
1820.....	50,220	1843.....	11,240
1821.....	44,995	1844.....	11,924
1822.....	36,469	1845.....	18,637
1823.....	29,873	1846.....	15,070
1824.....	25,400	1847.....	17,703
1825.....	30,100	1848.....	14,650
1826.....	23,250	1849.....	21,450
1827.....	10,700	1850.....	6,770
1828.....	23,228	1851.....	6,564
1829.....	20,811	1852.....	6,735
1830.....	18,034	1853.....	18,035
1831.....	16,034	1854.....	26,148
1832.....	10,446	1855.....	8,585
1833.....	16,412	1856.....	23,550
1834.....	15,751	1857.....	21,082
1835.....	6,580	1858.....	31,810
1836.....	6,590	1859.....	22,000
1837.....	6,802	1860.....	21,590
1838.....	*6,000		
1839.....	*6,000	Total in forty-four years.....	765,687

*Approximative.

Referring to this table, Mr. McIntyre says:

"The number of seals on St. Paul Island is variously estimated at from 3,000,000 to 4,000,000, including all classes, and on St. George at about one-third as many. I think it may be safely stated that there are not less than 4,000,000 on the two islands. The table from the records of the late Russian-American Company, appended to this report, exhibits the number of seals taken from each island from 1817 to 1837, and from 1842 to 1860. Previously to 1817, says the late Bishop Veniamnoff, no records were kept. From the same authority we learn that during the first few years following the discovery of the islands in 1781 over 100,000 skins were annually obtained; but this, it seems, was too large a number, for the decrease in the yearly return was constant until 1842, when they had become nearly extinct, and in the next decade the whole number secured was 129,178, being in 1852 but 6,564; but from 1842, under judicious management, there appears to have been an increase, and in 1858 31,810 were taken, which was the largest catch in any one year, until 1867, when, as I am informed, some 80,000 or 100,000 were secured, under the supposition that the Territory would soon be transferred to the United States. 'The decrease from 1817 to 1838,' says Bishop Veniamnoff, 'averaged about one-eighth of the whole number annually, so that in 1834 there were produced on both islands, instead of 60,000 to 80,000, only 15,751, and in 1837, 6,802.' From the most careful computation I have been able to make, I am of the opinion that no more than 100,000—75,000 on St. Paul and 25,000 from St. George—can be annually taken without incurring the risk of again diminishing the yearly production, as we observe the Russians to have done in former years."

See also Wick, chief of land service, Russian-American telegraph expedition, who reported in 1868 on undiminished condition of the seal fishery (H. R. Ex. Doc. No. 177, 40th Cong., 2d sess.).

Six million seals had been taken from this sea between 1841 and 1870. (*Vide* Dall on Alaska and its resources, 1870, p. 492.)

(2) In 1868 Hutchinson and Morgan, the promoters and founders of the Alaska Commercial Company, and afterwards lessees of the islands, saw that, unless restrictions were imposed upon the islands, there would be ruin to the rookeries (H. W. Elliott, "Our Arctic Province," pp. 247, 248); consequently, by act of Congress approved July 27, 1868, the killing of fur-seals on the islands was prohibited (W. H. McIntyre, special agent Treasury Department, H. R. Ex. Doc. No. 36, 41st Cong., 2d sess., p. 12). Notwithstanding the act to which reference has been made, 50,000 were

own peculiar theories regarding seal life upon very limited experience. He says, at one place, that while the cows are out (and they go, he tells us, 10 to 15 miles and even further) the sealers catch them; while, at another place he states:

"The sea is black with them *around the islands*, where they pick up a good many seal, and *there is where the killing of cows occurs—when they go ashore.*"

So that, evidently, he may have seen cows killed when *around the islands*, the only place at which he apparently could observe them, and he has merely conjectured the distance that they go from land and the number actually shot in deep water.

This witness "thinks there is some damage done in killing and shooting of the cows and leaving so many young without their mothers." There would be less doubt respecting the cows being shot or lost if it was satisfactorily shown that large numbers of young pups were found dead in the rookeries. The witness, if able, would have certainly pointed to this. The reverse, however, is the fact; and, with the exception of one witness before the Congressional committee, whose evidence will be examined again, not an agent of the Government nor a writer ever stated that pups were found dead in any numbers on the islands from loss of mothers; the fact being that mothers never go far from their young until the young are well able to care for themselves. This witness, notwithstanding his allusion to supposed damage by the killing of mothers, the killing of cows by vessels in shore—where the sea is black with them—had to admit, "the number of seal, in the aggregate, is not apparently diminished." His knowledge is confined to one year (1881), and we have better and undisputed testimony that long after this a great increase had taken place—an increase of millions. Mr. Taylor, it should be observed, however, gave other testimony than that quoted by Mr. Blaine. He said that—

"These predatory vessels are generally there (in Behring Sea) in the spring of the year when the cows are going to the island to breed * * * most of the seals that are killed by these marauding vessels are cows with young."

He estimates the number taken in 1881 at from 5,000 to 8,000.

"These vessels will take occasion to hang around the islands, and when there is a heavy fog to go on the rookeries very often."

The chief damage, according to Mr. Taylor, is not the killing of mothers out at sea when their young are on shore depending upon the return of *their mothers*, as is contended, but it is due, he says, to the insufficient protection of the island. This can, as will be pointed out, be remedied if the suggestions of Government agents are acted upon in the line of better police guarding of the rookeries.

Mr. Williams's testimony is next referred to on page 10 of the appendix to Mr. Blaine's letter. This gentleman was engaged in the whaling business for forty years (page 73 of evidence before Congressional committee). As regards fur-seals, his knowledge is not based upon experience, but "from reading and from conversation with my captains" (p. 73). He was called by request of attorney for the Alaska Commercial Company, of which Mr. Williams was a stockholder.

No importance, it is submitted, can be attached to his testimony regarding the habits and nature of the seal after such a frank confession.

His evidence that females in pup mass together in the sea before landing may therefore be dismissed, since he does not produce any authority for a statement which is contradicted by expert testimony. Neither is his statement that hunters admit that out of eight shots they would save one seal only correct.

On pages 11 and 12 of the appendix Mr. Williams naturally gives his views for holding the control over seal life in Behring Sea. It is not denied that every lessee of the Pribylov group would agree entirely with him in this. It may be remarked that he does not share the theory of the United States that the chief danger lies in killing the mothers when out in the deep sea for food, having left their nurslings on shore.

At pages 10, 11, and 12 of the appendix Mr. Williams is quoted to show that the danger to the females lies in the journey through the Aleutian Islands, with young, to the breeding grounds. On page 90 of his evidence before the committee, he illustrates the ineffective means of protecting the rookeries by stating:

"Last fall a schooner landed at one of the rookeries and killed 17 cows and bulls right on the breeding rookeries."

Again, at page 106 he says:

"That the present measures are somewhat insufficient is shown by the fact that for the last three or four years there have been increased depredations annually upon the rookeries."

"A revenue-cutter goes upon the grounds and then is ordered north for inspection, or for relief of a whaling crew, or something of that kind, and they are gone pretty much the whole time of the sealing season, and there appears to be insufficiency of the method of protection."

On page 108 he says:

"They shoot them as they find them. * * * A vessel can approach within less than half a mile or a quarter of a mile of the island and not be seen (on account of

fog), and can send her boats on the beaches and get off fifty or a hundred skins before the inhabitants can find it out."

Evidently Mr. Williams does not consider the shooting of females far from land is much indulged in, as he insists that the damage is done inshore, where no police protection is enforced.

The history of the rookeries, given on pages 12, 13, and 14 of the appendix, has been dealt with already in this paper.

On pages 14 and 15 of the appendix an article on fur-seals, from Land and Water, written in 1877 by a Mr. Lee, is referred to.

He merely alludes to the indiscriminate slaughter which was practiced on the rookeries, which no one defends or justifies.

Mr. McIntyre, superintendent of the seal fisheries of Alaska for the lessees, is then brought forward by Mr. Blaine.

This gentleman went to the island as a Government agent to inspect the operations of the company. His reports were favorable to and highly eulogistic of the company, and they were immediately followed by his resignation as a Government official and his appointment to a lucrative position under the company.

His testimony is naturally more in favor of the company and of the Government's contention, which is so directly in the interest of the company, than the testimony of any other witness.

He thinks only one-fifth of the seals shot are recovered, and his reason is that he has found seals with bullets in their blubbers on the islands. He attributes a deficiency in the number of seals in 1888 to the fact that cows were killed. He mentions that if cows are killed in August, and their young deprived of their mother's care, the young perish. The young perish also if the mother is killed before they are born. In this way he endeavors to represent such a practice obtains, but it is to be borne in mind that he does not go so far as to say that pups are found dead on the islands in any number. When this officer was reporting on the operations of the company, and before the present contention was raised, he gave a glowing account of the increasing numbers of seals at the islands, as will be shown; but at page 116 of the evidence before the Congressional inquiry he labors to reduce the estimates of both Elliott and Dall by one-third or one-half. He concludes that the number of seals has largely decreased in the last two years (1887 and 1888). The company, however, killed their 100,000 in each of these years. The Government had the discretion to reduce the limit. The Government did not deem it necessary to do so. The number, this witness says, was increasing until 1882, and then other parties began the killing of seals, "especially since 1884." All this told upon the rookeries, and, he added, "a considerable percentage" of the killing was made up of male seals (evidence, p. 117). Mr. McIntyre attempted to count the catch in 1886 and in 1887, and stated that 40,000 skins a year were taken, nearly all in Behring Sea water, and in a few instances by raids on the land. How he obtained this information is not shown. From his position on the island of St. Paul during all that time his statement is obviously a mere surmise.

He could only know *personally* of the catch from raids which were made on the island in 1886 and 1887, and which were due to ineffective protection of the islands. After telling us that a large percentage of the catch of the marauders was made up of adult males, he entirely forgets this, as we find him saying (at p. 118):

"A majority of the skins taken by marauders, in fact 80 or 90 per cent., are from females."

It is submitted that this witness, whose interest on behalf of the company (the lessees) is shown in his confession that it was at times necessary, in order to control the price in the markets, for the company to take less than 100,000 seals (evidence, p. 121) has not strengthened his testimony on the main point by speaking positively to the following, which could only have been known to him by hearsay:

- (a) Russia destroyed marauding vessels.
- (b) A British vessel in 1887 took 450 seals in Behring Sea, secreted them on a small island, left them, and returned to the sea for more.
- (c) Marauders kill 100,000 each season.
- (d) It is not true that vessels are seized when pursuing legitimate business.

He goes on to say that for the first fifteen years of the company's lease, viz, from 1870 to 1885, the lessees were unmolested (p. 129), which statement has been shown to be incorrect. He observed that since 1882, and especially since 1884, other parties have been destroying seals, "reducing the equilibrium of the sexes." As will be submitted hereafter, he has been contradicted in regard to this by expert writers, historians, travelers, and agents of the United States Government.

Mr. H. W. Elliott, whose experience is limited to 1872, 1874, and 1876, when, as Mr. McIntyre says, no injury was done by marauders, is next referred to by Mr. Blaine (page 16 of appendix). He is referred to as a member of the Smithsonian Institution; he was also a special agent of the Treasury. The following are extracts taken from

a "report upon the customs districts, public service, and resources of Alaska Territory," by W. L. Morris, special agent of the Treasury Department, 1879:

"In the November number of Harper's Magazine, 1877, appears an article entitled 'Ten years' acquaintance with Alaska, 1867-77.' The authorship is correctly ascribed to Mr. Henry W. Elliott, now connected with the Smithsonian Institution in subofficial capacity. This gentleman was formerly a special agent of the Treasury Department, under a special act of Congress, approved April 22, 1874, appointed for the purpose of ascertaining at that time the condition of the seal fisheries in Alaska, the haunts and habits of the seal, the preservation and extension of the fisheries as a source of revenue to the United States, with like information respecting the fur-bearing animals of Alaska generally, the statistics of the fur trade and the condition of the people or natives, especially those upon whom the successful prosecution of the fisheries and fur trade is dependent.

"This report of Mr. Elliott will be further noticed hereafter, and, upon the threshold of criticising anything he has written upon Alaska, occasion is here taken to give him full credit for his valuable contribution in regard to fur-seals. It is to be regarded as authority and well conceived. The views of Mr. Elliott, however, in reference to other matters of moment in the Territory are so diametrically opposed and antagonistic to my own that I feel constrained to review some of his statements, glittering generalities, and the wholesale method with which he brushes out of existence with his facile pen and ready artist's brush anything of any essence of value, light, shade, or shadow in the broad expanse of Alaska that does not conform precisely to the rule of investigation and recital laid down by himself, and which contradicts his repeated assurances that outside of the seal islands and the immediate dependencies of the Alaska Commercial Company there is nothing in Alaska.

"This magazine article bears a sort of semi-official indorsement, its authority is not denied, and with this explanation for using the name of Mr. Elliott in connection therewith a few of its crudities and nudities will be noticed.

"THE SENSE-KEEPER OF ALASKA.

"So little is known about Alaska that whenever anything comes up in Congress relating to it information is sought wherever it can readily be found. The 'informant' is ever on hand, with his work on fur seals comfortably tucked underneath his left arm, to impart all the knowledge extant about the country, 'for he knows more about Alaska than any man living.'

"A decade has passed since we acquired this Territory, and for a decade it has afforded employment and subsistence for its present sense-keeper; but the next decade is warning into national existence, and it is about time this bubble was pricked and the bladder not quite so much inflated.

"I am fully aware of all the consequences to be dreaded, the responsibility assumed, when rash enough to dispute the heretofore self-established authority from the Arctic Ocean to the Portland Canal.

"This man seems to be the natural foe of Alaska, prosecuting and persecuting her with the brush of the pencil and the pen of an expert whenever and wherever he can get an audience, and I attribute the present forlorn condition of the Territory to-day more to his ignorance and misrepresentation than to all other causes combined. He is accused of being the paid creature and hired tool of the Alaska Commercial Company, and belonging to them body and soul. I have made diligent inquiry, and ascertain he is not in their employ, and furthermore they repudiate the ownership. They should not be held responsible for the indiscreet utterings of the sense-keeper, notwithstanding the charge of ownership might cause him to be more readily listened to.

"Doubtless when they have been attacked through the columns of the press they have employed this individual, who is unquestionably possessed with the *cacoethes scribendi* to reply to unjustifiable onslaughts, and paid him for it, as they would any other penny-liner who makes literature and writing for the press his profession."

His evidence in 1888 is open advocacy of the United States' contention. His writings and reports prior to the dispute will be referred to, and it will be submitted that his statements and experiences before 1888 hardly support his later theories. His statement on page 17 of the appendix, that wounded seals swim away to perish at a point never to be seen again is contradicted by the last witness, Mr. McIntyre, who picked handfuls of buckshot, etc., out of seals clubbed on the islands. His theory of the difficulty of shooting seals is contrary to the known practice of the hunters to creep upon the seal as it lies floating in the calm waters of the sea, and by his own testimony, before quoted, of the unerring aim of the Indian hunters.

Mr. Tingle, an agent of the Treasury, in charge of the fur-seal islands from April, 1885, to August, 1886, is quoted by Mr. Blaine (appendix, p. 17).

Mr. Tingle is not able to go so far as Mr. McIntyre, although he was at the islands in 1886 (evidence, p. 153), but he stated "there has been a slight diminution of seals,

probably." He estimated 30,000 were taken by marauders, and to do this he guesses that 500,000 were killed. This gentleman, as an agent of the Treasury, was confined to the islands during his tenure of office (evidence, p. 153).

He bases his contention on the log of a marauding schooner which fell into his hands. This log was, it may be remarked, not produced, and no excuse is given for withholding it. He produced what he said was a copy. As his opinions are based upon this curious statement, his testimony can hardly be seriously pressed. He testified to insolence of sealers when seized, though he does not appear to have been present at any of the seizures. The log-book, it should be observed, is said to have belonged to the *Angel Dolly*.

This is not the name of a Canadian sealer, and it may here be stated that no Canadian sealer has ever been found within the 3-mile limit. The operations on the schooner *Angel Dolly* must have been rather expensive, and they do not corroborate the allegation that large catches were made, since three hundred rounds of ammunition (Mr. Tingle said) were wasted for the capture of one seal. Another supposed entry in the log is most extraordinary for the captain of a sealer under any circumstances to make. The statement referred to is as follows:

"It is very discouraging to issue a large quantity of ammunition to your boats and have so few seals returned."

There is not a magistrate's court in the country that would listen to this oral testimony as to the contents of a log. A reference to this pretended log—a copy of a portion thereof only being produced by Mr. McIntyre (p. 332 of evidence)—shows that the captain had an exceptionally bad crew. The captain described them in the following terms: "The hardest set of hunters in Behring Sea;" he "never will be caught with such a crowd again; they are all a set of curs." The captain added, however, that if "we only had hunters we would be going home now with 1,500 skins at the very least;" and, from the log, it would appear that he had no regular hunters on board. It is worthy of remark that the statements made by Mr. Tingle respecting the entries in this alleged log are not confirmed by an inspection of the transcript Mr. McIntyre produces. (On p. 332 of evidence.)

Mr. Tingle contradicts Mr. McIntyre regarding the number of seals on the island. He states (p. 162, evidence) that there had been an increase of seals since Mr. Elliott's count in 1876 of 2,137,500. He expressed natural astonishment (p. 163) at the statement of Mr. Elliott regarding a decrease. He says:

"I am at a loss to know how Mr. Elliott gets his information, as he has not been on the islands for fourteen years."

Pushed by the chairman of the committee by the following question, viz, "It is Mr. McIntyre's opinion that they have not only not increased, but have decreased," the witness in reply stated that "there has been a *slight* diminution of seals, *probably*."

The next authority quoted by the United States is William Gavitt, a special agent of the Treasury at St. George Island from May, 1857, to August, 1858. The evidence of this witness is not referred to at any length by Mr. Blaine. The witness testified before the Congressional committee, however, that the employes of the company (the lessees) did not respect the laws of God or man. He named particularly Mr. Webster, Doctor Luty, John Kirk, and John Hall (p. 180). And he added that the rules of the company were violated (p. 181). The committee handled this witness rather roughly, Mr. Jeffries saying to him (p. 188):

"You had better understand what you are talking about."

On page 191 he rebukes other officers of the Treasury who had testified positively to matters without the means of knowledge. The witness was asked:

"What was the result of your observations and opinions that you deem reliable in respect to the unlawful killing of seal annually?"

The witness answered that—

"We have no means of knowing that."

He was then pressed in this way:

"It is a mere matter of estimate, of course, but I wish it based upon as reliable information as you have."

When the witness said—

"I think the first season the revenue-cutter captured 15,000 stolen skins (p. 191); where they were stolen, *whether in the sea or out of it, no agent can truthfully say.*"

He also showed that the lessees of the islands were not so particular as other agents pretend, when he tells us (p. 191) that they bought from the natives at Oonalaska 5,000 seals killed by them there (p. 196). The United States puts forward this officer as a reliable witness, and it is therefore but fair to attach importance to a statement which weakens the force of the *ex parte* statement and opinion of the special agents sent from time to time to the islands, and who have now been brought forward on behalf of the United States as witnesses in support of a case which concerns not merely the Government, but most directly the lessees. The witness states that one of the employes of the company told him that when a Government officer came

there and got along with the company it was profitable. Upon being asked by the committee before whom he was giving evidence to explain, he replied that—

"A man could draw two salaries, like Mr. Falkner and Judge Glidden—one from the Government and one from the company." (P. 191.)

Mr. Moulton's evidence is next presented (p. 19 of appendix). He was a Government agent from 1877 to 1885. He said that there was an apparent increase during the first five years, *i. e.*, to 1882, then a decrease to 1885. (Evidence, p. 255.) In this statement he has been contradicted by official reports, as will be shown.

The witness admits, however, that female seals, after giving birth to their young, scatter out in Behring Sea; and he is of opinion that lawless hunters kill all they find, and that they find mothers away from their nurseries. No special reason for this opinion is given, however.

A sailor, Edward Shields, of Vancouver, formerly on the sealing schooner *Caroline*, is said to have testified, where and when it is not stated (p. 20 of appendix to Mr. Blaine's letter), that in 1886 out of 636 seals taken by the *Caroline* the seals were chiefly females. Upon this it may be said that it is the custom among hunters to class all seals the skins of which are the size or near the size of the female as "females," for their guidance as to the quality of skins in the catch. It may also be remarked that it does not appear that these females were in milk, and this is always known when skinning the seal. "Dry cows" are caught, as has been admitted, and taking this evidence, given *ex parte* as it was, it is at best, if true, an exceptional case in a very small catch.

Mr. Glidden was recalled by the committee, and explained that his estimate of 40,000 skins was based on newspaper reports of the catch of the sealers. He was, of course, unable to show how many of these were taken near the Aleutian Islands, in the North Pacific, or on the west coast of British Columbia, or in the Puget Sound, but he evidently credits the whole estimated catch to Behring Sea. Consequently he was of opinion that sealing in Behring Sea should be ended, to lead to the better preservation of seal life.

It is to be observed that not one of these witnesses, whose opinions are relied upon both as to the catch, the habits, and sex of the seal in deep water and the method of shooting, etc., has had any experience as a hunter or with hunters. They were not experts. They were sent to the islands to see that the lessees performed their obligations as covenanted in the lease. The experience of most of them was limited to a few years' residence on the seal islands, associated with and under the natural influence of a company admittedly a monopoly and desirous of restricting the catch so as to control the market of the world as far as seals are concerned.

None of the witnesses were, moreover, submitted to a cross-examination, and they were to a large extent led by the examiners in the questions put to them. The only facts that were possibly within their knowledge relate to seal life on the islands, to the mode of killing, and to the times when killed there, and to their habits when in and upon the rookeries.

The opinions of the gentlemen given before the Congressional committee in 1888 for the most part, though sometimes contradictory, are in favor of the under-mentioned theories:

- (1) That the female seals while nursing their young go great distances in search of food.
- (2) That when out a great distance female seals are shot, and the pups on shore are lost for want of their mothers' care.
- (3) That the greater part of the catch in Behring Sea is made up of female seals.
- (4) That the destruction of the seals when hunted on the sea is great in consequence of many wounded seals being lost.

All of these opinions are put forward in support of the main proposition of the United States, viz, that since 1882, and especially since 1884, the number of seals usually collecting on the breeding ground has constantly diminished.

The Canadian Government joins issue upon this, and the counter assertion is made that there has been no appreciable diminution of seals frequenting the rookeries, and it is claimed that the seals are more numerous and more valuable upon the rookeries to-day than ever in their previous history; that this is the fact notwithstanding the rookeries have been for twenty years practically unprotected from frequent and most dangerous raids upon the actual breeding grounds and many other injuries, all within the control of the Government of the United States, as hereinafter specified:

The Canadian Government asserts that the seal life upon the islands can not only be maintained, but greatly increased, by the adoption on the part of the United States of—

- First. An efficient means for the patrol and protection of the islands.
- Second. By the prohibition of the killing of pups by the natives for food.
- Third. By reducing the number of yearling seals to be killed by the lessees.
- Fourth. By not permitting any killing of seals upon the islands, except in July, August, and September.

Fifth. By preventing the Aleuts from killing seals on their migration through the Aleutian Islands on their way to and from the breeding grounds.

In Mr. Blaine's dispatch to Sir Julian Pauncefote, of the 27th of January, 1890, he proceeds upon a somewhat different ground than the evidence already reviewed, in order to show the necessity for prohibition of sealing in the waters of Behring Sea.

The *ex parte* evidence before the Congressional committee satisfied that committee that "the present number of seals on St. Paul and St. George Islands has materially diminished during the last two or three years," viz., from 1886 to 1889, while Mr. McIntyre, whose evidence is so much relied upon by the United States, dates the decrease from 1882.

Mr. Blaine, however, adopts the view that the rookeries were in prime condition and undiminished until 1885, when, as he says, Canadian sealers made their advent into Behring Sea and the injury began.

It is therefore important to point out that the operations of the Canadian sealers were absolutely harmless compared with the numerous depredations upon the islands for the last century, which, however, have not yet begun to affect the value and number of seals on these wonderful rookeries.

Already evidence has been cited in this paper establishing the fact that extraordinary slaughter occurred prior to 1870, and that after all this, when the total number of seals on St. Paul and St. George Islands was admittedly less than now, it was deemed safe to permit 100,000 male seals of one year or over to be killed annually for twenty years, etc.

In 1870 Collector Phelps, of San Francisco, reported:

"I am assured the entire number taken south of the islands of St. George and St. Paul will aggregate, say, 10,000 to 20,000 per annum." (H. R. Ex. Doc. No. 35, 44th Cong., 1st sess.)

The Acting Secretary of the Treasury Department, in September, 1870, gave permission to the company to use fire-arms for *protection of the islands against marauders*. (H. R., 44th Cong., 1st sess., Ex. Doc. 83, p. 30.)

In 1872 Collector Phelps to Mr. Secretary Boutwell reports expedition fitting out in Australia and Victoria for sealing in Behring Sea with the object of capturing seals on their migrations to and from St. Paul and St. George Islands. Secretary Boutwell did not consider it expedient to interfere with these operations if they were carried on 3 miles from land.

In 1874 Mr. Secretary Sawyer, writing to Mr. H. W. Elliott, referred to British vessels taking fur-seals in United States waters and to the seals becoming more numerous.

In 1875 Mr. William McIntyre, an assistant agent of the Treasury, describes having been told that the crew of the schooner *Cygnat*, as she lay at anchor in Zapadne Bay in 1874, were shooting seals from the deck, skinning them, and throwing the carcasses overboard, which was alarming the seals and driving them from their breeding grounds. And he said:

"I wished to give the captain of the vessel timely warning before proceeding to harsh measures. I had armed the natives with the intention of repelling by force any *attempts to kill seal on the rookeries or within rifle-shot of the shore*, if the crews still persisted in doing so after the receipt of my letter to the captain."

He described the operations of the *Cygnat* under the cliff near the rookery, which alarmed the seals so that they left the rookery in large numbers. (Ex. Doc. No. 83, p. 124, 44th Cong., 1st sess.)

This vessel is again reported by Special Agent Bryant in May 12, 1875. (Ex. Doc. 83, p. 125, 44th Cong., 1st sess.)

From 1874 to 1878 Mr. F. J. Morgan, attorney for the Alaska Company, was on the islands during the years 1868, 1869, and from 1874 to 1878. He speaks of several raids upon the islands in his time, and he says the whole question is *one or more cruisers to protect the rookeries on the islands*. (H. R. Ex. Doc. 3883, 50th Cong., pp. 58, 71, 109.)

In 1875 the evidence of Darius Lyman contains the following information. (Report, Committee on Ways and Means, House report No. 623, 44th Cong., 1st sess.)

Answering Mr. Burchard as to what he knew about the seizure of the *San Diego*, Mr. Lyman replied:

"There was a seizure made of the *San Diego*, a schooner, near St. Paul Island on the 27th of July last (1875), on board of which were 1,660 fur-seal skins. The *San Diego* was sent down to California, and arrived there in August."

On page 73 of the same report, Mr. Elliott, in answer to Mr. Chapin, says that the skins taken from the *San Diego* were from *Otter Island*, one of the leased group.

In 1880 Mr. McIntyre reported the estimated annual slaughter of 5,000 pregnant females on the British Columbia coast.

From reports of Special Agent Ottis and Captain Bailey respecting the people of Alaska and their condition (Senate Ex. Doc. 132, 46th Cong., 2d sess., vol. 4, p. 4), Captain Bailey says:

"During April and May all the coast Indians, from the mouth of the straits of Fuca to the north end of Prince of Wales Island, find profitable employment in taking fur-

seals which seem to be making the passage along the coast to the north, being probably a portion of the vast number that finally congregate at the Seal Island later in the season. I am informed by the Indians that most of the seals taken along this coast are females, and their skins find a market at the various Hudson Bay posts."

On page 34 of the same report, in a list of the vessels boarded, he gives the United States schooner *Lolita*, Dexter master, seized at the seal islands by Special Agent Ottis.

In a report by Special Commissioner Ivan Petroff in the year 1880, he says:

"As these seals pass up and down the coast as far as the Straits of Fuca and the mouth of Columbia River, quite a number of them are secured by hunters, who shoot or spear them as they find them asleep at sea. Also small vessels are fitted out in San Francisco, which regularly cruise in these waters for the purpose alone of shooting sleeping seal." (H. R. Ex. Doc. No. 40, 46th Cong., 3d sess., vol. 18, p. 65.)

At page 61 of the same report this officer speaks of the natives securing 1,200 to 1,400 young fur-seals in *transits* through Oonalga Pass.

Special Agent D. B. Taylor, in 1881, states that the company was powerless to protect the islands, but that if a harbor was built and a steam-launch stationed at each island they could be protected. He states that vessels go to the islands and kill 10,000 to 15,000 a year, and that one hundred vessels have been prowling about these islands for twenty years. (H. R. Ex. Doc. No. 3883, 50th Cong., p. 58.)

Mr. Treasury Agent H. A. Glidden, who was on the islands from 1832 to 1835, shows that the trouble is at the islands. The hunters go there on moonlight nights. He stated that he took possession of a vessel while the crew were on shore killing seals. The Government, he goes on to say, did not keep vessels there in his time, and he recommended that a revenue cutter should be kept there to guard the islands. (H. R. Ex. Doc. 3883, 50th Cong., p. 28.)

Prior to the decision of the United States to arrest vessels outside the 3-mile limit in Behring Sea experience had shown that the police force at the islands could not protect them from raids. This is illustrated in a letter from the Secretary of the Treasury, Mr. W. McCulloch, dated the 24th of February, 1885, wherein he recommends that \$25,000 be obtained for the protection of seals and the enforcement of the laws.

"The seal fisheries"—

He states—

"yield annually to the Government a revenue of about \$300,000. The islands on which the seals are taken are protected from incursions of marauding vessels alone through the cruising of the revenue-cutters. Last year the officers of the *Cortina* seized a schooner engaged in taking seals unlawfully. Without the use of cutters the fur-seal industry has no protection."

The letter closes by asking for \$25,000 "in the estimates for next year." (H. R. Ex. Doc. 252, 48th Cong., 2d sess., vol. 29.)

September 1, 1884, the Hamburg schooner *Adèle* was seized for violation of section 1956, Revised Statutes United States.

In 1884 Captain McLean, master of the schooner *Mary Ellen*, was in Behring Sea from the 8th of July to the 22d of August. He took 2,007 seals, and was not interfered with. (See his declaration under act for the suppression of extrajudicial and voluntary oaths.)

Mr. George Wardman, an officer of the United States Government, was at the seal islands May, 1885. He was also there in 1879, and, in addition to his evidence before the Congressional committee, he has reported to his Government and has written a book upon Alaska and Behring Sea, "Wardman's Trip to Alaska," published in 1884. At page 116 of this is given an account of the raiding of Otter Islands and the consequent request for a revenue-marine guard at that place during the sealing season, which was granted.

In 1885 Captain McLean again visited Behring Sea in the *Mary Ellen*. He was there from the 4th of July to the 3d of September. He took 2,300 seals, and was not interfered with.

Captain Healy, in reporting on the cruise of the *Cortina* in the Behring Sea, in 1885, when speaking of the seal fisheries, said:

"During the year quite a number of vessels have raided Alaskan waters for seals and other fur-bearing animals." (H. R. Ex. Doc. No. 153, 49th Cong., 1st sess., vol. 32.)

In 1886 the governor of Alaska, in his report for that year (p. 43), states that an indiscriminate slaughter was carried on *previous* to the seizures of 1885.

In 1886 Special Agent Tingle, to Secretary Fairchild, congratulated the Government on the arrest of the *San Diego*, which he called "an old offender." "This," Mr. Tingle remarked, "will do much to break up marauding business around the islands." He further urged the Government to keep a cutter about the islands from July 1 to the 1st of November.

The above references, it is submitted, establish conclusively the defenseless con-

dition of the islands from the depredations of the marauders or poachers upon the rookeries (not one being a Canadian) ever since the islands came into the possession of the United States.

Mr. Blaine, in his dispatch of the 27th of January, 1890, remarks that—

"Proceeding by a close obedience to the laws of nature, and rigidly limiting the number to be annually slaughtered, the Government succeeded in increasing the total number of seals and adding correspondingly and largely to the value of the fisheries."

And in the same dispatch he speaks of the profitable pursuit of this business down to the year 1886.

To show that at the present time the value of the islands is greater and their condition is better than ever, it is only necessary to observe that while the late lessees paid to the Government of the United States an annual rental of \$50,000 in addition to \$2.62½ per skin for the total number taken, the offers, when the islands were put up for competition in 1890, were enormously exceeded, as will be seen on reference to a schedule of the proposals submitted to the United States' Treasury Department in response to the advertisements of the Treasury inviting offers for the privileges, dated December 24, 1889, and February 20, 1890.

Upon reference to the evidence before the Congressional committee (H. R. No. 3883, 50th Cong., 2d sess.), it will be seen that "the Government now, *without any care or risk*, gets \$317,000 a year for the lease." And at page 99 of the same report it is stated that the annual income from skins to the Government was \$512,736, and that in sixteen years the United States' Government received from the Alaskan fur-seal industry \$8,203,776.

It is further stated that the Government had then already been repaid the capital sum paid for the whole Territory of Alaska, and more, with "her many varied, and, as I believe, incomparably great national resources, to represent the investment of capital first made."

"FIFTH.—THE RECEIPTS AND EXPENSES OF THE GOVERNMENT ON ACCOUNT OF SAID CONTRACT.

"The total amount paid by the lessees on account of said contract up to June 30, 1888, inclusive, was \$5,597,100. The total amount expended by the Government during the same period was about \$250,000 for salaries and traveling expenses of agents of the Treasury Department at the seal islands, and about \$150,000 for the revenue-outters cruising Alaskan waters.

"To the amount already received direct from the company should be added the sum received by the United States from customs duties on Alaskan dressed seal-skins imported from Europe, amounting to \$3,426,000, to which should be added the sum of \$502,000 customs duties on imported seal-skins taken by said company under its contract with Russia, making an aggregate amount received by the Government on account of this industry of \$9,525,233, being \$2,325,283 in excess of the amount paid to Russia for the Territory." (Report of Congress, 1888.)

It can now be shown how marvelous has been the increase of seals on these islands, notwithstanding the absence of the protection to the rookeries and 3-mile limit, whether around the islands or at the different passes in the Aleutian range, where the breeding seals in pup go twice a year.

In 1869 Special Agent Bryant estimated the number of seals to be as follows (41st Cong., 3d sess., No. 32, Senate, p. 7):

On St. Paul Island.....	1, 153, 000
On St. George Island.....	576, 000
Total.....	1, 729, 000

In 1874 Mr. Elliott, after examination, estimated the number of seals to be:

On St. Paul Island.....	3, 030, 000
On St. George Island.....	163, 420
Total.....	3, 193, 420

Exclusive of non-breeding seals, and adding those to the estimate of Mr. Elliott just quoted, he himself said that the total would reach 4,700,000.

In 1884, long after the period when McIntyre stated that the seals were decreasing—as he said since 1882—Mr. Wardman, when writing from the islands, tells us—

"The number of seals is steadily increasing." ("A Trip to Alaska," p. 93.)

Mr. H. A. Glidden, an agent of the Treasury from 1882 to the 8th of June, 1885, an authority quoted by Mr. Blaine in support of the United States' contention, told the Congressional committee in 1888, in replying to the question, "What do you say

about the increase or diminution of the number of seals on the rookeries of St. Paul and St. George?"

"I did not notice any change. * * * I could not see any particular difference. They come and have their young and go away. The period of gestation is eleven months, and then they come back in the spring following. They are there during the season in countless numbers." (Evidence before Congressional committee, p. 27.)

Mr. George R. Tingle, a special agent of the Treasury, gave his evidence before the same committee, and he is put forward by Mr. Blaine in support of the United States' contention. (Appendix to Mr. Blaine's letter to Sir Julian Pauncefote, March 1, p. 17.)

Confirming Mr. Glidden's opinion, as above quoted, Mr. Tingle said:

"From Mr. Elliott's statement I understand that there are no more seals now than there were in 1872. I am at a loss to know how Mr. Elliott got his information, as he had not been on the islands for fourteen years."

The same Mr. Tingle, in 1887, reported to Secretary Fairchild that—

"He found the lines of occupancy extending beyond those of last year, and the cows quite as densely packed on the ground on most of the rookeries, whilst on two rookeries there is some falling off. *It is certain*, however, this vast number of animals, so valuable to the Government, are still on the increase. The condition of all the rookeries could not be better." (Appendix to report, Congressional committee, 1888, p. 359.)

In a report of the Alaska Commercial Company (December 13, 1887), it is stated that Mr. George R. Tingle, the agent appointed by the Secretary of the Treasury, substantially confirms Mr. Elliott in his view referred to above, excepting that, upon a careful survey by himself in 1886, he estimated that the fur-seals upon the two islands had increased in number about 2,000,000 up to that time. Mr. Tingle's estimate for 1886 is 6,537,750 (H. R. Ex. Doc. No. 31, 50th Cong., 1st sess.), and in December the Alaska Commercial Company, in their report, said that the seals were on the increase.

The latest definite information appearing in the United States documents regarding the condition of the rookeries is contained in the report of Mr. Tingle, who, as special agent of the Treasury Department, wrote from St. Paul Island, Alaska, July 31, 1888, as follows:

"I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made, and some of them much beyond these lines, showing conclusively that seal life is not being depleted, but is fully up to the estimates given in my report of 1887."

From the above United States officials it is clear that, with only partial protection on the islands, the seals have increased in an amazing degree. These islands, containing in 1874 the largest number of seals ever found in the history of sealing at any place, contain to-day a more astounding number.

When the number was less than half of what it is at present, Lieut. Washburn Maynard, of the U. S. Navy, was instructed to make an investigation into the condition of the fur trade of the Territory of Alaska, and in 1874 he reported that 112,000 young male seals had been annually killed in each year, from 1870 to 1874, on the islands comprising the Pribylov group, and he did not think that this diminished the numbers. Lieutenant Maynard's report (44th Cong., 1st sess., H. R. No. 43), as well as that of Mr. Bryant in 1869 (Ex. Doc. No. 32, 41st Cong., 2d sess.), largely supports the contention of the Canadian Government respecting the productiveness of the seal and their habits during the breeding season.

It is not denied that seals enter Behring Sea for the purpose of resorting to the islands to propagate their species, and because the immense herd is chiefly confined to the islands for this purpose during the breeding season it is that the seals have so constantly increased.

Notwithstanding the lax efforts on the part of the United States to guard or patrol the breeding islands, the difficulty of approaching the rough coasts thereof, the prevalence of fogs and other causes have, in a large degree, prevented too destructive or too numerous raids being made upon the rookeries.

The Canadian Government contends that while seals in calf are taken on and off the coasts of British Columbia and California, and also during their migrations near the Aleutian Islands by Indians and Aleuts, the bulk of the seals taken in the open sea of that part of the Pacific Ocean called Behring Sea are bulls both old and young—but chiefly young—and that most of the cows when taken are known as "dry cows," i. e., cows that have nursed and weaned their young, or cows that are barren, or those that have lost pups from natural causes.

It must also be noted that there are more females than males in a herd of seals. ("Trip to Alaska," Wardman, p. 94.)

The position taken by the Canadian Government is supported:

(1) By the history of the rookeries as above given and the great increase shown despite the constant killing and raids upon the islands during the past century.

(2) By the fact that the old bulls that have been able to hold their position on the rookeries go into the water at the end of the rutting season, between 1st and 10th of August. (H. R. Ex. Doc. No. 83, 44th Cong., 1st sess., app., p. 132.)

Mr. Clark, on the Antarctic seal fisheries, in "The Fisheries and Fishery Industries in the United States," 1887, pp. 423, 424, says:

"In very stormy weather, when they (the seals) are driven into the sea, they are forced to betake themselves to the sheltered side of the island, hence the men find that stormy weather pays them best. Two or three old males, termed "beach masters," hold a beach to themselves and cover it with cows, but allow no other males to haul up. The males fight furiously, and one man told me that he had seen an old male take up a younger one in his teeth and throw him into the air. The males show fight when whipped, and are with great difficulty driven into the sea.

"They are sometimes treated with horrible brutality. The females give birth to the young soon after their arrival.

"After leaving the rookeries the bulls do not return to them again that season."

(3) By the fact that two-thirds of all the males that are born are never permitted to land upon the same ground with the females. This large band of bachelors, when it visits land, herds miles away from the breeding grounds. (H. W. Elliott, H. R. No. 3583, 50th Cong., p. 112.)

They are driven off into the water. (Clark's article on Antarctic seal fishery industries of the United States, sec. v, vol. ii, 1887, p. 431.)

Young seals are prevented from landing on rookeries. (Ex. Doc. 83, 44th Cong., 1st sess., p. 93; see also Elliott, H. R., 44th Cong., 1st sess., Ex. Doc. No. 83.)

Yearling seals arrive about the middle of July accompanied by a few of the mature males, remaining a greater part of the time in the water. (H. H. McIntyre, 41st Cong., 2d sess., H. R. No. 36, p. 14; also H. R. Ex. Doc. 43, 1st sess., 44th Cong., p. 4.)

Mr. Samuel Falkner, assistant Treasury agent, writing from St. George Island August 1, 1873, to Mr. Bryant, Treasury agent for the seal islands, says:

"I notice on some of the rookeries the passage ways, formerly occupied by young bachelors in hauling upon the background, are completely blocked up by females, thus preventing the young seals from landing, and, as the greater portion of this island shore is composed of high cliffs, it renders it difficult for any great number to effect a landing. There are also numerous old males constantly guarding the shore line, which makes it still more difficult for the young ones to work their way on the background."

Then, again, it must be remembered that the non-breeding seals, consisting of all the yearlings and all the males under six or seven years of age, nearly equal in number the breeding seals, and Mr. Elliott estimated, when there were 4,700,000 seals on the island, 1,500,000 of this number were non-breeding seals. (Elliott, app. to H. R. Ex. Doc. No. 83, 44th Cong., 1st sess., p. 79.)

On thick, foggy days bachelor seals numbering over a million will often haul out on different hauling grounds, and on the recurrence of fine weather disappear into the water. (Elliott, p. 144, H. R., 44th Cong., 1st sess., Ex. Doc. 83.)

The young bachelors do not remain on shore long at a time. (P. 4, 44th Cong., 1st sess., Ex. Doc. No. 43.) They are so numerous, however, that thousands can be seen upon the hauling grounds, as all of them are never either on shore or in the water at the same time. (*Ibid.*, p. 44.) By the fact that the cows remain with their pups and suckle them until all have left.

They do not go on the rookeries until three years of age. (H. R. Ex. Doc., 44th Cong., 1st sess., No. 43, p. 4.)

They do not go far from shore until the young are reared. Peron says that both parent elephant seals stay with the young without feeding at all until the young are six or seven weeks old, and that then the old ones conduct the young to the water. (Clark's article on Antarctic seals, p. 424.)

The young are suckled by the females for some time and then left to themselves, lying on the beach, where they seem to grow fat without further feeding. ("The Fisheries and Fishing Industries of the United States," sec. v, vol. ii, 1887, p. 424.) For this reason those that are pupped in June are off in the water in August.

So, also, on the African coast the seal remains until the young can take care of themselves. (*Ibid.*, p. 416.)

The bulk of the seals are confined to the islands until ice surrounds them. (H. R. Ex. Doc. No. 45, 44th Cong., 1st sess., p. 2.)

The seals never leave their places, seldom sleep, and never eat anything from May to August, when they take to the water, but, it is believed, take no food until their final departure in November. (H. H. McIntyre, H. R. Ex. Doc. No. 36, 41st Cong., 2d sess., vol. 5.) Mr. Elliott says, "perhaps she feeds." (P. 130 his report on Alaska, 1874, H. R. No. 83 Ex. Doc., 44th Cong.)

The bulls, while on the island, prevent the mothers taking to the water. (Marine mammals, by Captain Shannon, "United States Revenue Marine," 1874, p. 152.)

From 10th to 25th of July the rookeries are fuller than at any other time during the

season, as the pups have all been born, and all the bulls, cows, and pups remain within their limits. (H. R. Ex. Doc. No. 43, 44th Cong., 1st sess., p. 3.)

It has been shown that when in the rookeries mothers were destroyed, the young were found dead, etc., but Professor Elliott, in reference to the Pribilof Islands, says:

"With the exception of those animals which have received wounds in combat, no sick or dying seals are seen upon the islands.

"Out of the great numbers, thousands upon thousands of seals that must die every year from old age alone, not one have I ever seen here. They evidently give up their lives at sea." (His report on Alaska, 1874, H. R. Ex. Doc. 83, 44th Cong., p. 150.)

To further prove that the contention of the Canadian Government is not at all unreasonable, it may be said that at the International Fisheries Exhibition, London, 1883, Mr. Brown Goode, of the U. S. Fish Commission, having stated the regulations of the United States concerning the Pribilof group, the official report upon the exhibition, says:

"Every animal, both in sea and on land, reproduces its kind in greater numbers than can possibly exist. In other words, all animals tend to multiply more rapidly than their food; many of them must in consequence either die or be destroyed, and man may rest satisfied that so far as the open ocean is concerned, the fish which he destroys, if he abstain from destroying, would perish in other ways. With respect to the former (seals), I have already pointed out that the restriction which the United States Government has placed on the destruction of seals in the Alaskan islands seem unnecessarily large."

He added that nature has imposed a limit to their destruction.

Professor Elliott himself was of the opinion in 1874 (see his report on Alaska already referred to, pp. 88, 89) that—

"With regard to the increase of the seal life, I do not think it within the power of human management to promote this end to the slightest appreciable degree beyond its present extent and condition in a state of nature; for it can not fail to be evident, from my detailed description of the habits and life of the fur-seal on these islands during a great part of the year, that, could man have the same supervision and control over this animal during the whole season which he has at his command while they visit the land, he might cause them to multiply and increase, as he would so many cattle, to an indefinite number, only limited by time and means; but the case in question, unfortunately, takes the fur-seal six months out of every year far beyond the reach, or even cognizance of any one, where it is exposed to known powerful and destructive natural enemies, and many others probably unknown, which prey upon it, and, in accordance with a well-recognized law of nature, keep it at about a certain number, which has been for ages, and will be for the future, as affairs now are, its maximum limit of increase. This law holds good everywhere throughout the animal kingdom, regulating and preserving the equilibrium of life in a state of nature. Did it not hold good, these seal islands and all Behring Sea would have been literally covered, and have swarmed with them long before the Russians discovered them; but there were no more seals when first seen here by human eyes in 1786-'87 than there are now, in 1874, as far as all evidence goes.

"What can be done to promote their increase? We can not cause a greater number of females to be born every year; we do not touch or disturb these females as they grow up and live, and we save more than enough males to serve them. Nothing more can be done, for it is impossible to protect them from deadly enemies in their wanderings for food.

"This great body of four and five millions of hearty, active animals must consume an enormous amount of food every year. They can not average less than 5 pounds of fish each per diem (this is not half enough for an adult male), which gives the consumption of over three million tons of fish every year!

"To get this immense food supply the seals are compelled to disperse over a very large area of the North Pacific and fish. This brings them into contact more and more with their enemies as they advance south, until they reach a point where their annual destruction from natural foes is equal to their increase, and at this point their number will remain fixed. About the seal islands I have failed to notice the least disturbance among these animals by anything in the water or out, and from my observation I am led to believe that it is not until they descend well to the south in the North Pacific that they meet with sharks and voracious killer-whales."

The following extract from the report of Mr. H. H. McIntyre, special agent of the Treasury at the islands in 1869, largely supports the foregoing views:

"The habits of the fur-seal are peculiar, and in considering the action necessary

* "In the stomach of one of these animals (year before last) fourteen small harp-seals were found." *Michael Carroll's report, Canadian Fisheries, 1872.*

to their protection deserve careful attention. From the statements of the employ  es of the late Russian-American Company, the information derived from the intelligent native chief of St. Paul Island, and my own observation during the summer of 1869 I have reached the following conclusions: The seals reach the islands of St. Paul and St. George in May, June, and July of each year in the following order: first, a small number of old male seals, known as *wigs*, visit the islands very early in the spring, or as soon as the ice has melted sufficiently to allow them to reach the rocks upon the shore. Their object at this time seems to be solely to reconnoiter their old rookeries with a view to re-occupy them, if they have not been disturbed, and the natives, so understanding it, avoid any noise likely to alarm them, and in case the wind is in such direction as to carry the smoke from the settlement towards the rookeries all fires are extinguished. After a few days these pioneers take their departure, and as the season advances, if they have been undisturbed on the occasion of their first visit, they return, bringing with them all the males of mature age, above five or six years old, who are able to maintain their places in the breeding rookeries. Climbing up on the rocks, each seal selects his position and takes possession of and occupies through the season, if sufficiently strong, from 1 to 3 square rods of ground.

"Still later in the season, when the ice has nearly disappeared, the females arrive, conveyed by the young males above one year of age, who are unable to occupy the rookeries with their seniors. The females, immediately on reaching the shore, are appropriated by the old males and taken to the places respectively selected by them for the season, which is generally the same for many successive years. It is asserted that the same male seal has been known to occupy one rock for more than twenty seasons. The young seals above one year of age, called bachelors, take their positions around the edges of the rookeries or remain in the water, and are constantly trying to steal the females from their respective masters, who also rob each other of their families, by stealth or strength, whenever occasion offers, and thus an incessant quarrel is maintained at all points, which keeps the old males constantly on the alert. They never leave their places, seldom sleep, nor do they eat anything whatever during the entire season from May to August, when they go into the water, but, as far as can be ascertained, take no food until their final departure in November. It may be remarked, however, that they are very fat on arrival and quite as lean at the time of leaving, in autumn. The young seals are supposed to feed while in the water, but this has not been definitely proved, nor is the nature of their food well known, since an examination of their stomachs seldom reveals more than a green, mucilaginous matter. Following all others, the yearling seals arrive about the middle of July, accompanied by a few of the older males, and remain for the greater part of the time in the water. Soon after their arrival, in the months of June and July, the females bring forth their young." (Ex. Doc., 41st Cong., 2d sess., No. 36, p. 14.)

Reference has been made to the raids upon the rookeries, and to the fact that insufficient care has been taken of the breeding ground. It is contended that it is the duty of the Government drawing an enormous rental from these islands to carefully guard and protect them, and it is undoubted that with efficient protection the increase of seal life will be more marvelous than ever.

Mr. Tingle, in 1886, in his report to Secretary Fairchild, urges the Government to keep a cutter around the islands from the 1st of July to the 1st of November.

Mr. Morgan, in 1888, in his evidence before Congress (p. 23), said there were not sufficient cutters for the protection of the islands, and Mr. Wardman, special agent of the Treasury at the islands, 1881 to 1885, said:

"I think the Government ought to keep at least one revenue steamer therein and about these two islands up until the middle of October at least. The trouble has been in the revenue marine service. The appropriations were all right, and a fellow would be sent up to nominally protect the seal islands, but he would also be ordered to look for the north pole as well as watch the seal islands. He might find the north pole, but not around the seal islands. He would be away just at the time he would be needed around there." (Evidence before Congressional committee, p. 38.)

The Hon. Mr. Williams said:

"The Government practice, through the Treasury Department, has been to protect these waters so far as they could with the revenue-cutters which are at their command. Still, it has frequently happened that a revenue-cutter goes upon the seal ground and then is ordered north for inspection, or for the relief of a whaling crew or something of that kind, and they are gone pretty much the whole time of the sealing season, and there seems to be an insufficiency in the method of protection." (Evidence before Congressional committee, p. 106.)

Mr. Taylor, special agent of the Treasury in 1881, said before the same committee (p. 58):

"The difficulty heretofore has been that our revenue-cutters have been obliged to cover a territory of 800 miles long and 700 or 800 miles wide, north and south, and they would get around to the seal islands about twice during a season. They never happened to be there when needed, and, as far as rendering any service whatever is con-

cerned, they were practically useless so far as the seal islands were concerned. That has been the experience, I believe, of all who have been there."

This officer recommended steam-launches for Government agents at the islands. (Evidence before Congressional committee, p. 109.)

Mr. Glidden, another agent of the Treasury from 1882 to 1885, says (evidence Congressional committee, p. 28) when he was at the islands the Government kept no vessels there.

"They landed our officers on a little island 6 miles from St. Paul to watch. . . . In every report I made I recommended that they should keep a revenue-cutter there. One vessel can not protect those islands and visit the Arctic Ocean besides. The cruising ground is far too extensive, covering, as it does, a distance of several thousand miles, and while the cutter is absent in the Arctic much damage can be done by the marauding vessels to the seal islands."

That Congress regarded it at the outset as the duty, at least, of the administration, to simply guard and regulate the islands is clear from the act first dealing with the subject.

Mr. Boutwell, the Secretary of the Treasury, reported in 1870 (41st Cong., 2d sess., Ex. Doc. 109) as follows:

"A suggestion has been made to this Department, in various forms, that the Government should lease these islands for a long period of time to a company or firm, for an annual sum of money, upon the condition that provision should be made for the subsistence and education of the natives, and that the fisheries themselves should be preserved from injury. This plan is open to the very grave objection that it makes a monopoly of a branch of industry, important not only for the people of the islands but to the people of the United States, if the preparation and manufacture of the skins for use should be transferred from London to this country. Such a monopoly is contrary to the ideas of the people, and not many years would pass before serious efforts would be made for its overthrow. Moreover, the natives of the islands would be under the control of the company, and, as the expiration of the lease approached, the inducements to protect them and preserve the fisheries would diminish, especially if the company saw, as would probably be the case, that it had no hope of a renewal of its privileges. Under these circumstances the Government of the United States would necessarily be subjected to great expense and trouble.

"For these reasons, briefly stated, but valid, as they appear to me, I can not concur in the suggestion that the islands should be leased to any company for a period of years.

"Inasmuch as it will be necessary for the Government of the United States to maintain in and around the islands a military and naval force for the protection of its interests under any plan that can be devised, I am of opinion that it is better that the Government should assume the entire control of the business of the islands, and exclude everybody but its own servants and agents; that it should establish a rigid system of police, excluding from the islands distilled spirits and fire-arms, and subject vessels that touch there to forfeiture, except when they are driven to seek shelter or for necessary repairs. The conditions of such occupancy and control by the Government of the United States seem to me to be these:

"First, the exclusion of other parties; second, the supply to the natives of such articles as they are accustomed to use; third, compensation to the natives for their labor, and the payment of a sufficient additional sum each year to enable them to live in the manner to which they have been accustomed; fourth, an equitable division of the value of the skins over the payments made to the natives, and the cost to the Government of the United States of maintaining such force as is necessary for the protection of the business.

"The portion of the surplus equitably belonging to the natives might be set aside for the purpose of education and religious teaching, the erection of more suitable dwellings than they now possess, and generally for their physical, intellectual, and moral improvement.

"If the Government were to lease the islands it would not be possible to withdraw entirely the military and naval forces, or to neglect a careful supervision, and the additional expense consequent upon retaining possession of the business of the islands in the hands of the Government would not be large.

"Ordinarily, I agree in the opinion that a government, especially one like that of the United States, is not adapted to the management of business; but this clearly is a business which can not be left open to individual competition; and if it is to be a monopoly, whether profitable or otherwise, the interest of the Government is so large, and the expenses incident to the protection of these islands so great, that it can not afford to substitute to any extent the monopoly of an individual or of a company for its own lawful supervision.

"Should the Government fail in the attempt to manage the business through its own agents, there will then be opportunity to lease the fisheries to private parties;

but my opinion is that a larger revenue can be obtained from them by actual management than by a lease.

"In further reply to the resolution, I have to say that the skins taken in 1868 were removed by Messrs. Kohl, Hutchinson & Co., the Solicitor of the Treasury being of opinion that the Government had no legal authority to detain them. Those taken in 1869 are upon the islands, but no decision has been made touching the rights of the Government.

"In concluding this report, I desire to call the attention of Congress to the fact that it is necessary to legislate immediately so far as to provide for the business of the present year. The natives will commence the capture of seals about the 1st of June.

"If the islands are to be leased for the present year it should be done immediately, that the lessee may make provision for the business of the year. If the business of the present year is to be conducted by the Government, as I think it should be, whatever our future policy, legislation is necessary; and I suggest that the Secretary of the Treasury be authorized to appoint agents in Alaska, who shall be empowered to superintend the capture of the seals and the curing of the skins; and that an appropriation shall be made of \$100,000, out of which the natives shall be paid for the labor performed by them and the other expenses incident to the business met.

"The Secretary of the Treasury should also be authorized to sell the skins at public auction or upon sealed proposals at San Francisco or New York, as he may deem most for the interest of the Government.

"It should be observed in this connection that the Government derived no benefit whatever from the seal fishery of the year 1868, and that the skins taken in 1869 are, nominally at least, the property of two companies, while the Government, during the last year, has furnished protection to the natives and the fishery, and has no assurance at present that it will derive any benefit whatever therefrom.

"If legislation is long delayed the business of the year 1870 will be but a repetition of that of 1869."

While the Canadian contention is supported, as has been seen, by many extracts from the reports of officials of the United States Government, it is apparent that the desire of the lessees, and indirectly that of the officials, has been to create a monopoly in the fur-seal industry, since in this way the market for the skins is largely enhanced and the value of the islands greatly increased.

This is no doubt one reason for the divergent opinions entertained as to the best regulations for the preservation of seal life between those who control the islands and those who are compelled to hunt the seals in the ocean.

In support of the above assertion the following authorities are in point:

Mr. Bryant, in 1869 (Senate Ex. Doc. No. 32, 41st Cong., 2d sess.), stated that the large number taken in 1867 and in 1868 decreased the London valuation to \$3 and \$4 a skin.

Mr. Moore, in a report to the Secretary of the Treasury (H. R. Ex. Doc. No. 83, p. 196, 44th Cong., 1st sess.), says, when alluding to the advisability of killing more seals than prescribed by the act of July 1, 1870:

"It seems that the 100,000 fur-seals from our own islands, together with the 30,000 obtained by them from Asiatic islands, besides the scattering fur-seals killed in the south seas, are all the market of the world can conveniently take. In fact, it is pretty evident that the very restriction of the numbers killed is about the most valuable part of the franchise of the Alaska Commercial Company, and it is only another proof of the absurdity of the frequent charges made against them that they surreptitiously take from our islands 20,000 to 30,000 more seals than they are entitled to take.

"There does not exist any doubt, nor indeed is it denied by the Alaska Commercial Company, that the lease of the islands of St. Paul and St. George is highly lucrative. The great success of this franchise is, however, owing, as far as I could ascertain, to three principal causes: First, the Alaska Commercial Company, owing to the fact that they have the sole control of the three Asiatic islands on which fur-seals are found, as well as on our own islands, as St. Paul and St. George, virtually manage the sale of 80 per cent. of all the fur-seals killed annually in the world; secondly, the arbitrary and somewhat eccentric law of fashion has raised the price of fur-seals in the markets of the world during the last four years fully 100 per cent. in value; thirdly, time and experience have given this controlling company most valuable advantages. For instance, in the island of St. Paul, where a reputed number of from 3,000,000 to 3,500,000 of seals congregate, the comparatively small quantity only of formerly 75,000 and now 90,000 are killed. The company employs experts in selecting easily the kind that are the most valuable in the market, and have no difficulty in getting 90,000 out of a flock of 3,000,000 to 3,500,000, which are the select of the select; and it is owing to this cause, and to the care taken in avoiding cuts in the skins, as also in properly preparing them for the market, that the high prices are

obtained. Indeed, the fact is that a fur-seal selling now in London for £2 10s. or £3 is, owing to its superior quality and excellent condition, cheaper than the fur-seals which five years ago fetched 30 shillings sterling. The former mode of the indiscriminate killing of fur-seals was as detrimental to the value of the skins as it was to the existence of the breed. With such a valuable franchise, secured by a contract that has still fifteen years to run, but which could, without notice, be terminated by the Secretary of the Treasury for cause, it would indeed be a suicidal policy on the part of the company to infringe on the stipulations of the contract."

All this is explained in the evidence before the Congressional committee, pages 77, 101, 105, and 121, where the company is shown not to have taken the full quota in two years.

"Not because we could not get enough seals, but because the market did not demand them. There were plenty of seals." (Evidence before Congressional committee, p. 121.)

Mr. McIntyre, once a special agent, has already been quoted, and was afterwards in the service of the company, reported, in 1869, to the Speaker of the House of Representatives, Mr. Blaine (H. R. Ex. Doc. No. 36, 41st Cong., 2d sess.), that—

"The number of skins that may be secured, however, should not be taken as the criterion on which to fix the limit of the yearly catch, but rather the demand of the market, keeping, of course, always within the annual production. It appears that under the Russian management a much larger number was sometimes killed than could be advantageously disposed of. Thus, in 1803, after the slaughter had been conducted for some years without regard to the market, an accumulation of 800,000 skins was found in the storehouses on the islands, 700,000 of which were thrown into the sea as worthless. At several times since that date the market has been glutted, and sales almost or quite suspended. A few months previously to the transfer of Alaska to the United States seal-skins were worth in London only \$1.50 to \$3 each, and several thousand skins owned by the Russian-American Company were sold to parties in San Francisco, at the time of the transfer, at 50 cents to \$1.25, a sum insufficient to pay the present cost of securing and transporting them to that city. Soon afterwards, however, fur-seal garments became fashionable in Europe, and in the expectation that the usual supply would be cut off by reason of the transfer of Alaska, prices advanced to \$4 to \$7 per skin; contrary to the expectation of dealers more than 200,000 skins were taken by the various parties engaged in the business on the islands in 1868, and the London price has declined to \$3 to \$4 per skin; and I am assured that if the raw skins now held by dealers in London were thrown upon the market, a sufficient sum to pay the cost of transportation from the islands could hardly be realized. The number of raw skins now upon the market is not less than 350,000, and it is predicted that several years must elapse before the demand will again raise the price above the present rate, if, indeed, the large surplus of skins does not carry it much lower before reaction begins."

Many of the dangers to seal life have been mentioned, and it has been shown that the herd still thrives; but the wonderful productiveness of the seal is further shown by an allusion to a danger greater than all the assaults of man in the deep sea—a danger ever existing, which naturally tends to keep the seals inshore, or, when outside, to scatter.

Reference is made to the killer-whales and sharks. (H. R. Ex. Doc. 83, 44th Cong., 1st sess., p. 177, and pp. 80, 87 of appendix to the same document; also page 359 of evidence before Congressional committee, 1888.)

"That these animals are preyed upon extensively by killer-whales (*Orca gladiator*) in especial, and by sharks, and probably other submarine foes now unknown, is at once evident; for were they not held in check by some such cause they would, as they exist to-day on St. Paul, quickly multiply, by arithmetical progression, to so great an extent that the island, nay, Behring Sea itself, could not contain them. The present annual killing of 100,000 out of a yearly total of over a million males does not in any appreciable degree diminish the seal life, or interfere in the slightest with its regular, sure perpetuation on the breeding grounds every year. We may, therefore, properly look upon this aggregate of four and five millions of fur-seals as we see them every season on these Pribilof Islands as the maximum limit of increase assigned to them by natural law. The great equilibrium which nature holds in life upon this earth must be sustained at St. Paul as well as elsewhere. (Elliott's report, pp. 62, 64.)

"When before the Committee of Ways and Means on the 17th of March, 1876, on the investigation before alluded to, Mr. Elliott made a similar statement, giving in somewhat greater detail the reasons for his conclusions. His evidence will be found annexed to the report of the committee." (Report No. 623, H. R., 44th Cong., 1st sess.)

Respecting the practice of sealing as known in Canada, it may be said: Canadian sealers start out upon their sealing voyages some time in the beginning of the year. The vessels go down to a point off San Francisco, and from thence work north. The

seals taken by them off the coast are of both sexes; many in pup, some young bulls; very few old bulls run in the Pacific Ocean.

The catch of each vessel will average between 500 and 700 seals a year between 1st of January and the end of May.

When an untrained crew is taken, many shots may be fired without hitting the seals at all, since the novice expects he can hit when at considerable distance, the seals in such cases escaping entirely; but with Indian hunters and expert whites a seal is nearly always captured when hit. An expert never shoots until after he has arrived at close quarters, and generally when the seal is asleep.

In Behring Sea the catch is made up largely of young bachelors.

Sealing captains contend that no male becomes fit for the rookeries until six years of age. This contention is supported by the authorities to whom reference has already been made.

It is further contended that should a temporary diminution of seal life become apparent upon the islands of the Pribylov group, it would not follow that the herds were decreasing. Professor Elliott, in his report of 1874 upon Alaska, so frequently referred to in this paper, argues on pages 265 and 266 that in such a case a corresponding augmentation may occur in Copper or Behring Island, since "these animals are not particularly attached to the respective places of their birth."

"Thus it appears to me necessary that definite knowledge concerning the Commander Islands and the Kuriles should be possessed; without it I should not hesitate to say that any report made by an agent of the Department as to a visible diminution of the seal life on the Pribylovs due, in his opinion, to the effect of killing as it is conducted was without good foundation; that this diminution would have been noticed just the same in all likelihood had there been no taking of seals at all on the islands, and that the missing seals are more than probably on the Russian grounds."

[Inclosure 4.]

Note on the question of the protection of the fur-seal in the North Pacific.

(By Mr. George Dawson, D.S., F.G.S., F.R.S.C., F.R.M.S., Assistant Director of the Geological Survey of Canada.)

The mode of protection which is apparently advocated by the United States Government in the case of the fur-seal, viz, that of leasing the privilege of killing the animal on the breeding grounds and prohibiting its capture elsewhere, is a new departure in the matter of such protection. If, indeed, the whole sweep of the Pacific Ocean north of the equator was dominated and effectively controlled by the United States, something might be said in favor of some such mode of protection from a commercial point of view; but in the actual circumstances the results would be so entirely in favor of the United States, and so completely opposed to the interests and natural rights of citizens of all other countries, that it is preposterous to suppose that such a mode of protection of these animals can be maintained.

Such an assumption can be based in this case on one or other only of two grounds: Stated briefly, the position of the United States in the matter appears to be based on the idea of allowing, for a money consideration, the slaughter of the maximum possible number of seals compatible with the continued existence of the animals on the Pribylov Islands, while, in order that this number shall not be reduced, no sealing is to be permitted elsewhere.

(1) That Behring Sea is a *mare clausum*.

(2) That each and every fur-seal is the property of the United States.

Both claims have been made in one form or other, but neither has, so far as I know, been officially formulated.

The first is simply disproved by the geographical features of Behring Sea, by the fact that this sea and Behring Strait contribute the open highway to the Arctic and to part of the northern shore of Canada, by the previous action of the United States Government when this sea was nearly surrounded by Russian territory, and by the fact that from 1842 to the date of the purchase of Alaska fleets of United States and other whalers were annually engaged in Behring Sea. It is scarcely possible that any serious attempt will be made to support this contention. (Bancroft's History, vol. 33, Alaska, p. 583 *et seq.*)

The second ground of claim is candidly advanced by H. W. Elliott, who writes:

"The fur-seals of Alaska, collectively and individually, are the property of the General Government. * * * Every fur-seal playing in the waters of Behring Sea around about the Pribylov Islands, no matter if found so doing 100 miles away from

those rookeries, belong there, has been begotten and born thereon, and is the animal that the explicit shield of the law protects. No legal sophism or quibble can cloud the whole truth of my statement. * * * The matter is, however, now thoroughly appreciated and understood at the Treasury Department, and has been during the past four years, as the seal pirates have discovered to their chagrin and discomfiture." (U. S. 10th Census, vol. 8, Fur-Seal Islands, p. 157.)

Waiving for the moment the general objection which may be raised to the enforcement of such a principle on the high seas—an enforcement which the United States, in the interest of the Alaska Fur Company, appear to have undertaken—the facts upon which the assumption are based may be questioned. Mr. Elliott, in fact, himself writes, on the same page (referring to the presence of a large sealing fleet in Behring Sea), that it could not fail "in a few short years in so harassing and irritating the breeding seals as to cause their withdrawal from the Alaska rookeries, and probable retreat to those of Russia—a source of undoubted Muscovite delight and emolument and of corresponding loss and shame to us."

This remark implies that the seals may resort to either the Pribylov or the Russian islands, according to circumstances; and who is to judge, in the case of a particular animal, in which of these places it has been born? The old theory that the seals returned each year to the same spot has been amply disproved. Elliott himself admits this, and it is confirmed (*op. cit.*, p. 31) by Capt. Charles Bryant, who resided eight years in the Pribylov Islands as Government agent, and who, having marked 100 seals in 1870, on St. Paul Island, recognized, the next year, 4 of them in different rookeries on that island and 2 on St. George Island. (Monograph on North American Pinnipeds, Allen, 1880, p. 401.)

It is, moreover, by no means certain that the fur-seals breed exclusively on the Russian and United States seal islands of Behring Sea, though these islands are no doubt their principal and important breeding places. They were formerly, according to Captain Shannon, found in considerable numbers on the coast of California: and Captain Bryant was credibly informed ("Marine Mammals of Coast of Northwest North America," pp. 152, 154, quoted by Allen, *op. cit.*, p. 332) of the existence in recent years of small breeding colonies of these animals on the Queen Charlotte Islands of British Columbia. Mr. Allen further quotes from the observations of Mr. James G. Swan, field assistant of the United States Commissioner of Fish and Fisheries.

"Mr. Swan" (I quote from Mr. Elliott) "has passed nearly an average life-time on the Northwest coast, and has rendered to natural science and to ethnology efficient and valuable service."

His statements may therefore be received with respect. He writes:

"The fact that they (the fur-seals) do bear pups in the open ocean, off Fuca Strait, is well established by the evidence of every one of the sealing captains, the Indians, and my own personal observations. Dr. Power says the facts do not admit of dispute."

* * * It seems as preposterous to my mind to suppose that all the fur-seals of the North Pacific go to the Pribylov Islands as to suppose that all the salmon go to the Columbia or Fraser River or to the Yukon."

To this Prof. D. S. Jordan, the well-known naturalist, adds:

"I may remark that I saw a live fur-seal pup at Cape Flattery, taken from an old seal just killed, showing that the time of bringing them forth was just at hand."

On these statements Mr. Allen himself remarks:

"These observations, aside from the judicious suggestions made by Mr. Swan, are of special interest as confirming those made some years ago by Captain Bryant, and already briefly recorded in this work. They seem to show that at least a certain number of fur-seals repair to secluded places, suited to their needs, as far south as the latitude of Cape Flattery, to bring forth their young." (Allen, *op. cit.*, pp. 411, 772, 773.)

Mr. Elliott, of course, stoutly denies the authenticity of all these observations, it being necessary to do so in order to maintain his contention as to the ownership of the United States Government, or the Alaska Fur Company, as the case may be, in the seals.

It has further been often stated that the killing of fur-seals in the open sea off the North Pacific coast is a comparatively new departure, while it is, as a matter of fact, morally certain that the Indians of the whole length of that coast have pursued and killed these animals from time immemorial. As the value of the skins has, however, only of late years become fully known and appreciated, it is naturally difficult to obtain much trustworthy evidence of this without considerable research. Some facts can, however, be adduced. Thus, Captain Shannon described the mode of hunting seals in canoes employed by the Indians of Vancouver Island, and refers to the capture of seals by the Indians off the Straits of Fuca, where, he adds, they appear—

"Some years as early as the 1st of March, and more or less remain till July or August, but they are most plentiful in April and May. During these two months the Indians devote nearly all their time to sealing when the weather will permit."

In 1843 to 1864 only a few dozen skins are known to have been taken annually, but in 1869 fully 5,000 were obtained. Mr. Allen, writing in 1880, states that—

“During the winter months considerable numbers of seal-skins are taken by the natives of British Columbia, some years as many as 2,000.” (Allen, *op. cit.*, pp. 332, 371, 411.)

The protection of the fur-seals from extermination has from time to time been speciously advanced as a sufficient reason for extraordinary departures from the respect usually paid to private property and to international rights; but any protection based on the lease of the breeding grounds of these animals as places of slaughter, and an attempt to preserve the seals when at large and spread over the ocean, as they are during the greater part of each year, is unfair in its operation, unsound in principle, and impracticable in enforcement.

Referring to the interests of the Indians of the Northwest coast, it is true that a certain number of Aleuts now on the Pribylov Islands (398 in all, according to Elliott) are dependent on the sealing business for subsistence, but these islands were uninhabited when discovered by the Russians, who brought these people here for their own convenience. Further south along the coast the natives of the Aleutian Islands, of the southeast coast of Alaska, and of the entire coast of British Columbia have been, and still are, accustomed annually to kill considerable numbers of seals. This it would be unjust to interfere with, even were it possible to carry out any regulations with that effect. The further development of oceanic sealing affords employment to, and serves as a mode of advancement and civilization for, these Indians, and is one of the natural industries of the coast. No allusion need be made to the prescriptive rights of the white sealers, which are well known.

The unsoundness of this principle of conservation is shown by what has occurred in the southern hemisphere in respect to the fur-seals of that region. About the beginning of the century very productive sealing grounds existed in the Falkland Islands, Kerguelen Islands, Georgian Islands, the west coast of Patagonia, and many other places similarly situated, all of which were in the course of a few years almost absolutely stripped of seals, and in many of which the animal is now practically extinct. This destruction of the southern fur-sealing trade was not caused by promiscuous sealing at sea, but entirely by hunting on and around the shores, and, had these islands been protected as breeding places, the fur-seals would in all probability be nearly as abundant in the south to-day as they were at the date at which the trade commenced.

The impracticability of preventing the killing of seals on the open sea and of efficiently patrolling the North Pacific for this purpose is sufficiently obvious. The seals, moreover, when at sea (in marked contrast with their boldness and docility in their breeding places), are extremely wary, and the number which can be obtained by legitimate hunting at sea must always be small as compared with the total. Elliott, in fact, states that the seal, when at sea, “is the shyest and wariest your ingenuity can define.” (*Op. cit.*, p. 65.)

The position is such that at the present time the perpetuation or the extermination of the fur-seal in the North Pacific as a commercial factor practically depends entirely on the regulations and restrictions which may be applied by the United States to the Pribylov Islands, and now that this is understood a regard for the general interest of its own citizens, as well as for those of other countries, demands that the extermination or serious depletion of the seals on their breeding islands should be prevented. It is probably not necessary for this purpose that the killing of seals on these islands should be entirely prohibited. Both Elliott and Bryant show good reason for believing that a large number of seals may be killed annually without reducing the average aggregate number which can find suitable breeding grounds on these islands, and after the very great reduction in numbers which occurred, owing to an inclement season about 1836 (Elliott), or 1842 (Bryant), the seals increased very rapidly again, and in a few years being nearly as numerous as in 1873, when the total number on the islands was estimated at over 4,700,000.

By retaining an efficient control of the number of seals to be killed on the Pribylov Islands, and by fixing this number anew each season in accordance with circumstances, the United States Government will be in a position to counteract the effect of other causes tending to diminish the number of seals, whether climatic or resulting from the killing of a larger number at sea. There is no reason to apprehend that the number of seals which might thus be safely killed on the islands would under any circumstances be so small as to fail to cover the cost of the administration and protection of the islands. If such a policy as this, based on the common interests in the preservation of the seals, were adopted, it might be reasonable to agree (for the purpose of safeguarding the islands and for police purposes) that the jurisdiction of the United States in this matter should be admitted to extend to some greater distance than this usual one of 3 marine miles, though, as shown further on, the necessary distance would not be great.

The situation of the Pribylov Islands and the habits of the seal together cause the problem of its preservation to be one of extreme simplicity if approached from the point of view of protection on and about the islands, but one of very great difficulty if looked at from any other stand-point. The long-continued and presumably accurate observations which have been made on the habits of the seals show that during the entire breeding season they are very closely confined to the immediate shores of the breeding islands, and that neither in arriving nor in departing from these islands do they form schools or appear together in such numbers as to render promiscuous slaughter at sea possible. The old bulls actually remain on shore during the entire breeding season, while the females, though leaving their young from time to time for the water, are described as haunting the immediate vicinity of the shores just beyond the line of surf. Even the bachelor seals (Elliott, *op. cit.*, pp. 45, 64-*et passim*; Allen, *op. cit.*, p. 386), which constitute a distinct body while ashore and are not actually engaged in breeding or protecting the young, are said to remain close to the shore. If, however, any seals are to be found at this time going to or returning from the sea at some distance from land, these belong to the "bachelor" class, which is the very class selected for the killing by the fur company. The young females, after leaving the islands in the year of their birth, do not return at all till after reaching maturity in their third year. (Allen, *op. cit.*, p. 402.)

The evidence obtained by Captain Bryant shows that while "small groups of small seals (apparently one and two years old)" are met with at large in Behring Sea during July and August, no considerable numbers of schools are to be found. (Allen, *op. cit.*, p. 411.)

It is thus apparent that the perfect security of the seals actually engaged in breeding and suckling their young may be secured without extending the limits of protection beyond the usual distance of 3 miles from the shores of the breeding islands, but that for the purpose of increasing the facilities of supervision a somewhat wider limit might reasonably be accorded. Possibly by defining an area inclosed by lines joining points 3 miles off the extreme headlands and inlets of the Pribylov group, an ample and unobjectionable area of protection might be established.

It is allowed by all naturalists that the habits of the fur-seals of the southern hemisphere are identical with those of the seal of the North Pacific, and it is therefore admissible to quote the observations of Dampier on Juan Fernandez Island in further confirmation of the fact that these animals go only for a very short distance from land during the breeding season, even when in immense multitudes on the shore. Dampier writes:

"Here are always thousands, I might say possibly millions of them, either sitting on the bays or going and coming in the sea round the islands, which is covered with them (as they lie at the top of the water playing and sunning themselves) *for a mile or two from the shore.*" ("A New Voyage Round the World," 1703; quoted by Allen, *op. cit.*, p. 334.)

These rookeries have, like others in the South, been long since depleted and abandoned.

The circumstance that the female fur-seal becomes pregnant within a few days after the birth of its young, and that the period of gestation is nearly twelve months, with the fact that the skins are at all times fit for market (though for a few weeks, extending from the middle of August to the end of September, during the progress of the shedding and renewal of the longer hair, they are of less value) show that there is no natural basis for a close season generally applicable. Thus, should any close season be advocated, its length and the time of year during which it shall occur, can only be determined as a matter of convenience and be of the nature of a compromise between the various interests involved. The pelagic habits of the seals during fully six months of each year, and the fact that they are during the entire winter season widely dispersed over the Pacific, constitute a natural and unavoidable close season. It is thus only possible, from a commercial point of view, to kill the seals during the period of their approximate concentration for migration or when in Behring Sea. This is the period fixed by nature during which seals may be taken, and any artificial close season can be effective only if applied to the further curtailment of the time at which it is possible to carry on the fishery. It may be assumed, therefore, as such a close season for seal hunting at sea must be purely arbitrary and artificial, that any close season proposed by the United States or the lessees of the seal islands will be chosen entirely in the interest of sealing on shore, and so arranged as to render the time of sealing on the open sea as short and unprofitable as possible. It is thus important that the sea-going sealers should at least have an equal voice in the matter of the time and duration of a close period if such should be contemplated.

GEORGE M. DAWSON.

MARCH 5, 1890.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, March 24, 1890. (Received March 24.)

SIR: In pursuance of instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, I have the honor to inform you that, with the view to giving full effect to the final act of the Berlin Conference on the affairs of Samoa, the Marquis of Salisbury has directed her Majesty's consul at Apia to concert with his German and United States colleagues, measures to be taken at once for that end, and I now beg to communicate to you the substance of the instructions which have been sent to Colonel de Coetlogon on the subject, which is as follows:

Samoan laws having been passed on the 18th December last, making the provisions of article IV respecting land and of article VII respecting arms and intoxicating liquors binding upon Samoans, Her Majesty's Government are of opinion that regulations should be issued by the consuls of the three treaty powers enforcing the stipulations of those articles on their respective nationals, in so far as this has not been done, and that measures should also be taken to proceed with the division of the municipal territory into electoral wards, in order that the chief justice may be enabled, immediately on his assuming his functions, to order the election and induction into office of the local administration in accordance with article V.

Her Majesty's consul has been informed at the same time that Her Majesty's Government are further of opinion that it will be well, on financial grounds, that the provisions of article VI should come into force before the definitive organization of the municipal administration, which, under article V, can not take place until the chief justice and the president of the municipal council have been appointed and assumed office; and he has been therefore instructed to arrange with his German and United States colleagues, in concert with the Samoan Government, to fix by public notice an early date for the collection of taxes and duties, and to appoint, provisionally, the authorities charged with the collection and administration of the revenue, pending the time when the administration shall be taken over by the municipal council.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, March 26, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, in which, under instructions from the Marquis of Salisbury, you communicate the substance of the instructions sent to Her Majesty's consul at Apia, touching his coöperation with the consular representatives of Germany and the United States in taking measures preliminary to the execution of the general act of Berlin.

The instructions under which Colonel de Coetlogon is to act appear to agree with the proposition submitted to me by the German minister at this capital on the 2d instant and with the telegraphic instruction which,

in pursuance of the joint understanding then reached, I sent on the 6th instant by way of Auckland to Vice-Consul Blacklock, directing him to join simultaneously with the British and German consuls in orders restricting the traffic in firearms and liquors, and defining the election districts of the municipality, and also in concerting with the Samoan Government to fix a date for beginning the collection of taxes and customs and to provisionally appoint collectors.

I have, etc.,

JAMES G. BLAINE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, April 8, 1890.

SIR: The delay in securing a full conference with the President touching the appointment of a chief justice for Samoa has necessarily postponed my reply to your inquiry on the subject.

I am now instructed by the President to say that in his judgment the appointment of a chief justice by the King of Sweden, according to the provisions of the treaty, would tend to create greater harmony in Samoa, where the tripartite treaty is about to be put in operation, than the appointment of that officer by any one of the signatory powers.

I shall be glad if you will communicate this opinion of the President to the Imperial Government of Germany, which originated the plan of taking a chief justice from England.

I am, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, April —, 1890. (Received April 30.)

DEAR MR. BLAINE: At the last sitting of the conference on the Behring Sea fisheries question you expressed doubts, after reading the memorandum of the Canadian minister of marine and fisheries, which by your courtesy has since been printed, whether any arrangement could be arrived at that would be satisfactory to Canada.

You observed that the proposal of the United States had now been two years before Her Majesty's Government, that there was nothing further to urge in support of it; and you invited me to make a counter proposal on their behalf. To that task I have most earnestly applied myself, and while fully sensible of its great difficulty, owing to the conflict of opinion and of testimony which has manifested itself in the course of our discussions, I do not despair of arriving at a solution which will be satisfactory to all the governments concerned. It has been admitted from the commencement that the sole object of the negotiation is the preservation of the fur-seal species for the benefit of mankind, and that no considerations of advantage to any particular nation, or of benefit to any private interest, should enter into the question.

Such being the basis of negotiation, it would be strange indeed if we should fail to devise the means of solving the difficulties which have unfortunately arisen. I will proceed to explain by what method this result can, in my judgment, be attained. The great divergence of views which exists as to whether any restrictions on pelagic sealing are necessary for the preservation of the fur-seal species, and if so, as to the character and extent of such restrictions, renders it impossible, in my opinion, to arrive at any solution which would satisfy public opinion either in Canada or Great Britain, or in any country which may be invited to accede to the proposed arrangement, without a full inquiry by a mixed commission of experts, the result of whose labors and investigations in the region of the seal fishery would probably dispose of all the points in dispute.

As regards the immediate necessities of the case, I am prepared to recommend to my Government, for their approval and acceptance, certain measures of precaution which might be adopted provisionally and without prejudice to the ultimate decision on the points to be investigated by the commission. Those measures, which I will explain later on, would effectually remove all responsible apprehension of any depletion of the fur-seal species, at all events, pending the report of the commission.

It is important, in this relation, to note that while it has been contended on the part of the United States Government that the depletion of the fur-seal species has already commenced, and that even the extermination of the species is threatened within a measurable space of time, the latest reports of the United States agent, Mr. Tingle, are such as to dissipate all such alarms.

Mr. Tingle in 1887 reported that the vast number of seals was on the increase and that the condition of all the rookeries could not be better.

In his later report, dated July 31, 1888, he wrote as follows:

I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made and some of them much beyond those lines, showing conclusively that seal life is not being depleted, but is fully up to the estimate given in my report of 1887.

Mr. Elliott, who is frequently appealed to as a great authority on the subject, affirms that, such is the natural increase of the fur-seal species that these animals, were they not preyed upon by killer-whales (*Orca gladiator*), sharks, and other submarine foes, would multiply to such an extent that "Behring Sea itself could not contain them."

The Honorable Mr. Tupper has shown in his memorandum that the destruction of seals caused by pelagic sealing is insignificant in comparison with that caused by their natural enemies, and he gives figures exhibiting the marvelous increase of seals in spite of the depredations complained of.

Again, the destructive nature of the modes of killing seals by spears and fire-arms has apparently been greatly exaggerated, as may be seen from the affidavits of practical seal hunters which I annex to this letter, together with a confirmatory extract from a paper upon the "Fur-Seal Fisheries of the Pacific Coast and Alaska," prepared and published in San Francisco and designed for the information of eastern United States Senators and Congressmen.

The Canadian Government estimate the percentage of seals so wounded or killed and not recovered at 6 per cent.

In view of the facts above stated, it is improbable that, pending the result of the inquiry which I have suggested, any appreciable diminution of the fur-seal species should take place, even if the existing conditions of pelagic sealing were to remain unchanged.

But in order to quiet all apprehension on that score, I would propose the following provisional regulations:

I. That pelagic sealing should be prohibited in the Behring Sea, the Sea of Ochotsk, and the adjoining waters, during the months of May and June, and during the months of October, November, and December, which may be termed the "migration periods" of the fur-seal.

II. That all sealing vessels should be prohibited from approaching the breeding islands within a radius of 10 miles.

These regulations would put a stop to the two practices complained of as tending to exterminate the species; firstly, the slaughter of female seals with young during the migration periods, especially in the narrow passes of the Aleutian Islands; secondly, the destruction of female seals by marauders surreptitiously landing on the breeding islands under cover of the dense fogs which almost continuously prevail in that locality during the summer.

Mr. Taylor, another agent of the United States Government, asserts that the female seals (called cows) go out from the breeding islands every day for food. The following is an extract from his evidence:

The cows go 10 and 15 miles and even further — I do not know the average of it — and they are going and coming all the morning and evening. The sea is black with them round about the islands. If there is a little fog and they get out half a mile from shore we can not see a vessel 100 yards even. The vessels themselves lay around the islands there where they pick up a good many seal, and there is where the killing of cows occurs when they go ashore.

Whether the female seals go any distance from the islands in quest of food, and if so, to what distance, are questions in dispute, but pending their solution the regulation which I propose against the approach of sealing vessels within 10 miles of the islands for the prevention of surreptitious landing practically meets Mr. Taylor's complaint, be it well founded or not, to the fullest extent; for, owing to the prevalence of fogs, the risk of capture within a radius of 10 miles will keep vessels off at a much greater distance.

This regulation, if accepted by Her Majesty's Government, would cer-

tainly manifest a friendly desire on their part to co-operate with your Government and that of Russia in the protection of their rookeries and in the prevention of any violation of the laws applicable thereto. I have the honor to inclose the draught of a preliminary convention which I have prepared, providing for the appointment of a mixed commission, who are to report on certain specified questions within two years.

The draught embodies the temporary regulations above described, together with other clauses which appear to me necessary to give proper effect to them.

Although I believe that it would be sufficient during the "migration periods" to prevent all sealing within a specified distance from the passes of the Aleutian Islands, I have, out of deference to your views and to the wishes of the Russian minister, adopted the fishery line described in Article V, and which was suggested by you at the outset of our negotiation. The draught, of course, contemplates the conclusion of a further convention after full examination of the report of the mixed commission. It also make provision for the ultimate settlement by arbitration of any differences which the report of the commission may still fail to adjust, whereby the important element of finality is secured, and, in order to give to the proposed arrangement the widest international basis, the draught provides that the other powers shall be invited to accede to it.

The above proposals are, of course, submitted *ad referendum*, and it only now remains for me to commend them to your favorable consideration and to that of the Russian minister. They have been framed by me in a spirit of justice and conciliation, and with the most earnest desire to terminate the controversy in a manner honorable to all parties and worthy of the three great nations concerned.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

THE NORTH AMERICAN SEAL FISHERY CONVENTION.

TITLE.

Convention between Great Britain, Russia, and the United States of America in relation to the fur-seal fishery in the Behring Sea, the Sea of Ochotsk, and the adjoining waters.

PREAMBLE.

The Governments of Russia and of the United States having represented to the Government of Great Britain the urgency of regulating, by means of an international agreement, the fur-seal fishery in Behring Sea, the Sea of Ochotsk, and the adjoining waters, for the preservation of the fur-seal species in the North Pacific Ocean; and differences of opinion having arisen as to the necessity for the proposed agreement, in consequence whereof the three Governments have resolved to institute a full inquiry into the subject, and, pending the result of such inquiry, to adopt temporary measures for the restriction of the killing of seals during the breeding season, without prejudice to the ultimate decision of the questions in difference in relation to the said fishery.

The said three Governments have appointed as their respective plenipotentiaries, to wit:

Who, after having exchanged their full powers, which were found to be in good and due form, have agreed upon the following articles:

ARTICLE I.

MIXED COMMISSION OF EXPERTS TO BE APPOINTED.

The high contracting parties agree to appoint a mixed commission of experts, who shall inquire fully into the subject and report to the high contracting parties within 2 years from the date of this convention the result of their investigations, together with their opinions and recommendations on the following questions:

(1) Whether regulations properly enforced upon the breeding islands (Robin Island, in the Sea of Ochotak, and the Commander Islands and the Pribylov Islands, in the Behring Sea) and in the territorial waters surrounding those islands are sufficient for the preservation of the fur-seal species?

(2) If not, how far from the islands is it necessary that such regulations should be enforced in order to preserve the species?

(3) In either of the above cases, what should such regulations provide?

(4) If a close season is required on the breeding islands and territorial waters, what months should it embrace?

(5) If a close season is necessary outside of the breeding islands as well, what extent of waters and what period or periods should it embrace?

ARTICLE II.

ON RECEIPT OF REPORT OF COMMISSION QUESTION OF INTERNATIONAL REGULATIONS TO BE FORTHWITH DETERMINED.

On receipt of the report of the commission and of any separate reports which may be made by individual commissioners, the high contracting parties will proceed forthwith to determine what international regulations, if any, are necessary for the purpose aforesaid, and any regulations so agreed upon shall be embodied in a further convention to which the accession of the other powers shall be invited.

ARTICLE III.

ARBITRATION.

In case the high contracting parties should be unable to agree upon the regulations to be adopted, the questions in difference shall be referred to the arbitration of an impartial government, who shall duly consider the reports hereinbefore mentioned, and whose award shall be final and shall determine the conditions of the further convention.

ARTICLE IV.

PROVISIONAL REGULATIONS.

Pending the report of the commission, and for 6 months after the date of such report, the high contracting parties agree to adopt and put in force as a temporary measure, and without prejudice to the ultimate decision of any of the questions in difference in relation to the said fishery, the regulations contained in the next following articles, Nos. 5 to 10 inclusive.

ARTICLE V.

SEAL FISHERY LINE.

A line of demarcation, to be called the "seal fishery line," shall be drawn as follows:

From Point Anival, at the southern extremity of the island of Saghalien, in the Sea of Ochotak, to the point of intersection of the fiftieth parallel of north latitude with the one hundred and sixtieth meridian of longitude east from Greenwich, thence eastward along the said fiftieth parallel to its point of intersection with the one hundred and sixtieth meridian of longitude west from Greenwich.

ARTICLE VI.

CLOSE TIME.

The subjects and citizens of the high contracting parties shall be prohibited from engaging in the fur-seal fishery and the taking of seals by land or sea north of the seal fishery line from the 1st of May to the 30th of June, and also from the 1st of October to the 30th of December.

ARTICLE VII.

PREVENTION OF MARAUDERS.

During the intervening period, in order more effectively to prevent the surreptitious landing of marauders on the said breeding islands, vessels engaged in the fur-seal fishery and belonging to the subjects and citizens of the high contracting parties shall be prohibited from approaching the said islands within a radius of 10 miles.

ARTICLE VIII.

FURTHER PROVISIONAL REGULATIONS.

The high contracting parties may, pending the report of the commission, and on its recommendation or otherwise, make such further temporary regulations as may be deemed by them expedient for better carrying out the provisions of this convention and the purposes thereof.

ARTICLE IX.

PENALTY FOR VIOLATION OF PROVISIONAL REGULATIONS.

Every vessel which shall be found engaged in the fur-seal fishery contrary to the prohibitions provided for in articles 6 and 7, of in violation of any regulation made under article 8, shall, together with her apparel, equipment, and contents, be liable to forfeiture and confiscation, and the master and crew of such vessel, and every person belonging thereto, shall be liable to fine and imprisonment.

ARTICLE X.

SEIZURE FOR BREACH OF PROVISIONAL REGULATIONS. TRIAL OF OFFENSES.

Every such offending vessel or person may be seized and detained by the naval or other duly commissioned officers of any of the high contracting parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offense and impose the penalties for the same. The witnesses and proof necessary to establish the offense shall also be sent with them, and the court adjudicating upon the case may order such portion of the fines imposed or of the proceeds of the condemned vessel to be applied in payment of the expenses occasioned thereby.

ARTICLE XI.

RATIFICATION. COMMENCEMENT AND DURATION OF CONVENTION.

This convention shall be ratified and the ratifications shall be exchanged at _____ in six months from the date thereof, or sooner if possible. It shall take effect on such day as shall be agreed upon by the high contracting parties and shall remain in force until the expiration of six months after the date of the report of the commission of experts to be appointed under article I; but its duration may be extended by consent.

ARTICLE XII.

ACCESSION OF OTHER POWERS.

The high contracting parties agree to invite the accession of the other powers to the present convention.

[Inclosure 2.]

Extract from pamphlet entitled "Fur Seal Fisheries of the Pacific Coast and Alaska," published by C. D. Ladd, 529 Kearny street, San Francisco, Cal.

It is claimed that many seals are shot that sink and are lost.

Undoubtedly there are some lost in this way, but the percentage is light—probably one in thirty or forty, not more than this. It is also claimed that ten are shot and wounded that die to one that is secured. This is also an error. Many seals are shot at that are not hit at all, but when a seal is wounded so that in the end it will die, it is most always secured by the hunter, who may have to shoot at it several times in order to get it, as the seal in the water exposes only its head, and when frightened exposes only a small portion of that, so that together with the constant diving of the seal, the motion of the boat, etc., makes it very hard to hit. This is where it is claimed that ten are shot and wounded to one that is secured; but it is nearer the truth that one is lost to ten that are secured, for the reason that when a seal is wounded it can not remain under water any length of time and therefore the hunter can easily follow it up and secure it.

[Inclosure 3.]

Affidavits of practical seal hunters.

THOMAS HOWE.

In 1886, on board the *Theresa* and *Pathfinder*, I got for the season 397 seals and lost about 20. In 1887, on the schooner *Penelope*, I got 510 and lost about 30. In 1888, on the *Lily Lad*, I got 316 and lost 12. In 1889, on board the *Viva*, I got 587 and lost 27.

THOMAS HOWE.

FREDERICK GILBERT.

I am a seal hunter. I have been 4 years on board sealing vessels; 1 year I was a boat rower and 3 years a hunter. I have always been with white hunters, and have used a shotgun and rifle for shooting seals.

In 1887 I got 518 seals and lost 14; in 1888 I got 244 and lost 5; in 1889 I got 454 and lost 16; or in the 3 years I got 1,216 and lost 35 or 2½ per cent. I never shot or saw pups with the cows in the water, nor have I ever heard of such a case. Some hunters lose a few more than I do, but the most unlucky hunters I have met with did not lose twice as many.

FRED. GILBERT.

VICTORIA, BRITISH COLUMBIA, September 12, 1889.

CAPT. WILLIAM O'LEARY.

I am a master mariner, and have been seal hunting on the Pacific coast four years, three of which I was in Behring's Sea as well. One year I had Indian hunters only, and the three years I had white hunters only—all on the schooner *Pathfinder*. My experience with Indian hunters is that they lose none—at most a few—of the seals they spear. The spears are "bearded," some with one, some with two beards, and once the seal is struck, capture is certain.

White hunters use shot-guns and rifles, according to distance and state of water. On smooth water and at long ranges the rifle is generally used, but the majority of hunters use the shot-gun, and the great majority of seals are shot with guns.

The number of seals lost by white hunters does not exceed six in one hundred, and many hunters lose much less than that number. About half of the seals taken along the coast are cows, and perhaps two-thirds of the cows are with young. Putting a vessel's coast catch at four hundred, and from one hundred and fifty to one hundred and seventy-five might be cows with young. In Behring's Sea the average of cows with young killed will not average one in one hundred, for the reason that as soon as the cows reach the sea they go to the breeding islands, where their young are born.

I never saw cows in the water with their young with them. I do not think there is any decrease in the number of seal entering Behring's Sea. I never saw so many seal along the coast as there were this year; and in Behring's Sea they were more numerous than I ever saw before. This year I shot forty-four seals and lost one.

WM. O'LEARY.

VICTORIA, BRITISH COLUMBIA, September 12, 1889.

CAPTAIN SIEWARD.

I have been a master sealer for two years. In 1888 I commanded the *Araunak* and in 1889 the *Walter L. Rich*, and during both years sealed along the coast from off Point Northward to Behring's Sea. In 1888 I had Indian hunters and this year white hunters. The Indians lose very few seals, for if the spear strike the seal is got, and if the spear misses the seal of course escapes unhurt. The white hunters use rifles and shot-guns, the latter much more than the former. Rifles are used only by good shots, and then at only long range. The seals lost by white hunters after being shot or wounded do not, on the lower coast, exceed six in one hundred, and on the Alaska coast and in the Behring's Sea not over four in one hundred.

On sailing I generally take 10 per cent. additional ammunition for waste shot; that is, if calculating on a catch of 3,000 seals I would take ammunition for 3,300 shots. That was double the excess the hunters would consider necessary and I never knew that percentage of waste shot to be used. I never saw a female seal with her young beside her in the water. Out of a catch of 1,423 seals this year I had only 55 seals under two years old, i. e., between one and two years old.

When at Unalaska this year I learned that the Alaska Commercial Company last year fitted out two small schooners, belonging to private parties, with large deep nets several hundred fathoms long, which were set across the passes from Behring's Sea for the purpose of catching young seals. One of these schooners got 700 of these

young seals about four months old, and sold them to the Alaska Commercial Company for \$2.50 apiece.

A schooner, the *Spencer F. Baird*, 10 or 12 tons, was then at Ounalaska fitting up to go to Akoutan Pass for the same purpose this fall. The law forbids the killing of all fur-bearing animals in Alaskan waters by any hunters except the natives, yet such is done every year at Kodiak, Sanaka, and the Aleutian Islands by white hunters, fitted out by the Alaska Commercial Company, under the agreement that the furs must be sold to the company.

H. F. SIEWARD,

Master American Schooner *Walter L. Rich*.

VICTORIA, BRITISH COLUMBIA, August 10, 1889.

GEORGE HOWE.

My first year's sealing, 1886, was on board the *Theresa*, from San Francisco to Victoria. We left San Francisco on the 20th January, and arrived at Victoria on the 7th April. I got 159 seals, of which I lost about 7. I used a shot-gun principally, the rifle only for long range shooting, say from 30 to 60 yards. At Victoria I left the *Theresa* and joined the *Pathfinder*. The *Pathfinder* left Victoria on the 4th of May for Behring's Sea, and that trip I got 442 seals and lost about 20. In 1887 I joined the *Penelope* and left Victoria on the 3d February. I got 618 seals during the season and lost 31. In 1888 I did not go sealing, but in 1889 I was engaged on the schooner *Fiva*. We left Victoria on the 19th January, and I got 734 seals during the season and lost 37. I never saw a young pup alongside its cow in the water.

About one-third of the seals taken on the coast are cows with pup or capable of being with pup. In Behring's Sea I got four cows with pups in them.

GEORGE HOWE.

WILLIAM FEWINGS.

I have been three years hunting seals on the Pacific coast and in Behring's Sea. In 1887 I was on board the sealing schooner *Favourite*, in 1888 on the *Fiva*, and in 1889 on board the *Triumph*. In each year the vessel I was on entered the Behring's Sea early in July and left the sea the latter part of August or early in September, except this year, when the *Triumph* left the sea on the 11th July under threat of seizure, after searched by the United States cutter *Rush*. In 1887 the hunters I was with were partly Indians and partly whites. In the two last years the hunters were all whites, using shotguns and rifles. The rifles were used by the more experienced hunters and better shots for long range shooting, up to 100 yards, but few hunters attempted that range. The general range for rifles is not over 50 yards and most shots are made at a less range.

A few hunters used the rifle for all distances. I used either rifle or shotgun, according to the distance and position of the seal and the condition of the water.

My first year I got about four hundred seals. In getting this number I failed to capture about twenty-five shot at, or killed or wounded, but which escaped. In my second year I got over five hundred, and lost about thirty. This year I got one hundred and forty, and lost only one. I have frequently shot from two to five seal in a bunch, and got them all. One day in 1887 I got two bunches of five each, and another of four, and got the whole fourteen.

Indian hunters use spears, and either get every seal they throw at or it escapes unhurt, or but slightly wounded. Indians, it can be safely said, get every seal they kill.

Oscar Scarr, a hunter on the *Fiva*, in 1888 got over six hundred seals, and lost only about twenty. The average number lost by white hunters does not exceed six in one hundred, and by the Indian not six in one thousand. I have never shot, nor have I ever seen, a female seal with a young one beside or with her. It is very seldom a female is killed in Behring's Sea carrying her young with her, and out of one thousand killed on the coast earlier in the season less than one-third are females carrying their young.

WM. FEWINGS.

VICTORIA, BRITISH COLUMBIA, August 9, 1889.

WALTER HOUSE.

I was a hunter on the schooner *Walter L. Rich* on her sealing voyage this year. It was my first year on the Pacific coast, but I had seven years' experience on the Newfoundland coast catching hair-seals. This year on the *Rich* I got one hundred and eighty-five seals and lost five, which sank before I reached them. I used a shotgun. The hunters on the *Rich* lost about the same proportion, some a few more, some less. I never saw a cow seal in the water with her young beside her or near her, nor have I ever heard of such a case.

WALTER HOUSE

VICTORIA, BRITISH COLUMBIA, August 10, 1889.

JAMES WILSON.

I was carpenter on board the sealing schooner *Triumph* on her voyage this year. One of the hunters was drowned just before entering Behrings' Sea, and I took his place. I was out hunting seals about a week, but the weather was bad and I got only twenty-three seals. I had had no experience. I used a breech-loading shotgun, and shot seals at a range of from 10 to 15 yards. I lost one seal through the carelessness of the boat hands running the boat over the seal, which sank directly under the boat.

Most of seals lost by hunters are shot at long ranges with the rifles. One hunter on the *Triumph* this year got over sixty seals and only lost one. I never saw a cow seal with her young beside her. Out of the twenty-three I got, five or six were cows carrying their young.

JAMES WILSON.

VICTORIA, BRITISH COLUMBIA, August 9, 1889.

CAPT. J. D. WARREN.

I am a master mariner, and have been actively engaged in the deep-sea sealing business for twenty years. I have owned and commanded sealing vessels on voyages along the Pacific coast from 47° to 48° north latitude to 56° or 57° north latitude within Behring Sea. I have generally employed Indians, except in 1886 and 1887, the last years I was out, when I had white hunters as well. White hunters use rifles and shotguns entirely, Indian hunters use spears. Bullets weighing from 300 to 400-grains are used with rifles, and ordinary buckshot with guns. Both rifles and shotguns are breech-loading and of the best make. Seals are approached by the hunters in boats to 10 or 15 yards, lying generally asleep on the water. Frequently seals are taken alive when asleep, especially by the Indians, who, in their canoes, get within from a spear's length (14 or 15 feet) to 30 feet before they throw. Indians rarely lose a seal they strike, and if one escapes it is always but slightly wounded. Of seals killed by white hunters, probably not over 10 per cent. are killed with rifle, which is generally used for only a long range.

Sealers divide the seals for hunting purposes into two classes, "sleepers" and "feeders" or "travelers." "Sleepers" are almost always shot at from 10 to 15 yards range, and are seldom lost. "Feeders" are shot at just as their heads emerge from the water. From this fact the range is always from a few feet to 100 yards, though few are fired at at that distance. Hunters use a "gaff" a pole about 10 or 12 feet long, with one to three hooks upon it, with which they catch the seal and bring it into the boat. If the seal sinks, the "gaff" is run down, and the seal hooked up. The British sealing vessels employ more Indian than white hunters. My experience with white hunters is not so extensive as with Indians, but from what I have seen while engaged in sealing I can say that not over six in every one hundred seals killed by white hunters are lost or escape.

Experienced hunters seldom lose a seal; the losses are chiefly made by inexperienced hunters, only a few of whom are employed, for the reason that as hunters are paid so much a skin, inferior men can not make good wages. I have noticed no diminution in the number of seals during the twenty years I have been in the business, but if any change at all, an increase. Of the seals taken along the coast about one-half are females, and of the females not more than one-half are with young. In Behring Sea not one in one hundred of those taken by the hunters are females with young, because as soon as the females carrying their young get into the sea they go to the breeding islands or rookeries, and in a few days their young are born. The cows remain with their young until they are quite able to take care of themselves. I do not think that out of the seals taken by Indian and white hunters more than 30 per cent. are females actually breeding or capable of breeding.

"Old bulls," "bachelors," "two-year-old pups," and "barren cows" make up the great majority. Cows actually breeding are very watchful, and while on the voyage northward are ever on the alert, so they are difficult to take. On the other hand, the other classes above named make up the great class of "sleepers," from which fully 90 per cent. of the whole catch of hunters is derived. I never saw or heard of a "cow" having her young beside her in the water, either on the coast or in Behring Sea.

J. D. WARREN.

VICTORIA, BRITISH COLUMBIA, August 10, 1889.

Sir Julian Pouncefote to Mr. Blaine.

WASHINGTON, May 10, 1890. (Received May 13.)

SIR: With reference to the authentication of documents in extradition cases, I have the honor, in obedience to instructions which I have

received from the Marquis of Salisbury, to transmit herewith copy of a dispatch from His Excellency the governor-general of India in council, forwarding the forms of certificate proposed to be adopted in British India in support of applications for the extradition from the United States of America of fugitives from justice.

These forms appear to be in accordance with the certificate prescribed in your dispatch to the United States minister in London of the 25th of June last, a copy of which was communicated by him to Lord Salisbury, and I am directed to inquire whether they will be accepted as sufficient by the courts of the United States of America.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

FORT WILLIAM, April 1, 1890.

MY LORD: With reference to Your Lordship's dispatches, marginally noted, regarding No. 29 (judicial), ing the authentication of documents to be used for the purpose dated the 19th September, of obtaining extradition from the United States of America, we have the honor to forward, for Your Lordship's information, the No. 129. (public), forms of certificate which appear to us best suited for adoption in dated the 21st November, 1889. British India.

(2) These forms necessarily differ slightly from those received with Your Lordship's dispatches above mentioned, and we shall be glad to be informed whether they will be accepted as sufficient by the courts of the United States of America.

We have, etc.,

LANDSOWNE.
A. R. SCOBLE.
C. A. ELLIOTT.
P. P. HUTCHINS.
D. BARBOUR.

To the Right Honorable VISCOUNT CROSS, G. C. B.

[Inclosure 2.]

Form of certificate.

I, _____, the consul-general for the United States in Calcutta, hereby certify that the annexed paper, being _____ (here state what papers are), proposed to be used upon an application for the extradition from the United States of _____, charged with the crime of _____ alleged to have been committed in _____, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of _____, as required by the act of Congress of August 3, 1882.

Draft of certificate.

In forwarding the annexed papers to be used in support of an application for the surrender from the United States of _____, charged with the crime of _____, committed in British India, I hereby certify that, to the best of my knowledge and belief, the signatures ("A. B.") on the warrant of arrest, and on the information and depositions on which the warrant was granted, are the signatures of _____, a magistrate in British India having authority to issue and receive the same, and I further certify that such documents so signed by a magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a secretary to government and sealed with his official seal, would be received in evidence for similar purposes in the tribunals of British India.

Secretary to the Government of India.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 15, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, with which you transmit a copy of a dispatch from His Excellency the governor-general of India in council, forwarding forms of certificates proposed to be used in British India in authenticating papers in support of applications for the extradition from the United States of fugitives from justice.

As you observe, the form of certificate for the signature of the consuls of the United States is in accordance with that prescribed by this Department for the use of the legation in London, and it is believed that the form proposed for the signature of the secretary to the Government of India is in accordance with that employed by the home office in England. You inquire whether these certificates will be accepted as sufficient by the courts of the United States. In reply to this inquiry, I have the honor to say that the form of certificate prescribed by this Department for the use of the legation in London rests on the authority of several adjudicated cases and is the best that could be devised under the circumstances. It is proper to state that the Department was led to direct its employment in consequence of the decision of the commissioner in the recent case of Thomas Barton, who was examined in Philadelphia, in the State of Pennsylvania, on a charge of forgery alleged to have been committed in England. The commissioner rejected the documentary evidence for want of proper authentication, and the prisoner would have been discharged had it not been possible to adduce oral evidence. This led the Department to formulate a certificate founded on the adjudications of the courts upon the act of Congress of 1882. It is proper to say that this certificate was submitted to the commissioner in the Barton case, who stated that if such a form had been used in that case he would have admitted the documentary proofs.

The Department will cause copies of this certificate to be sent to its consular representatives in those parts of the British Dominions in which they may be called upon to certify extradition papers.

I have, etc.,

JAMES G. BLAINE.

The Marquis of Salisbury to Sir Julian Pauncefote.

[Left at the Department of State on June 5 by Sir Julian Pauncefote.]

No. 106.]

FOREIGN OFFICE, May 22, 1890.

SIR: I received in due course your dispatch No. 9, of the 23d January, inclosing copy of Mr. Blaine's note of the 22d of that month, in answer to the protest made on behalf of Her Majesty's Government on the 12th October last, against the seizure of Canadian vessels by the United States revenue-cutter *Rush* in Behring Sea.

The importance of the subject necessitated a reference to the Government of Canada, whose reply has only recently reached Her Majesty's Government. The negotiations which have taken place between

Mr. Blaine and yourself afford strong reason to hope that the difficulties attending this question are in a fair way towards an adjustment which will be satisfactory to both Governments. I think it right, however, to place on record, as briefly as possible, the views of Her Majesty's Government on the principal arguments brought forward on behalf of the United States.

Mr. Blaine's note defends the acts complained of by Her Majesty's Government on the following grounds:

1. That "the Canadian vessels arrested and detained in the Behring Sea were engaged in a pursuit that is in itself *contra bonos mores*—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States."

2. That the fisheries had been in the undisturbed possession and under the exclusive control of Russia from their discovery until the cession of Alaska to the United States in 1867, and that from this date onwards until 1886 they had also remained in the undisturbed possession of the United States Government.

3. That it is a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to the extinction of the species, and that therefore nations not possessing the territory upon which seals can increase their numbers by natural growth should refrain from the slaughter of them in the open sea.

Mr. Blaine further argues that the law of the sea and the liberty which it confers do not justify acts which are immoral in themselves, and which inevitably tend to results against the interests and against the welfare of mankind; and he proceeds to justify the forcible resistance of the United States Government by the necessity of defending not only their own traditional and long-established rights, but also the rights of good morals and of good government the world over.

He declares that while the United States will not withhold from any nation the privileges which they demanded for themselves, when Alaska was part of the Russian Empire, they are not disposed to exercise in the possessions acquired from Russia any less power or authority than they were willing to concede to the Imperial Government of Russia when its sovereignty extended over them. He claims from friendly nations a recognition of the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

With regard to the first of these arguments, namely, that the seizure of the Canadian vessels in the Behring's Sea was justified by the fact that they were "engaged in a pursuit that is in itself *contra bonos mores*—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States," it is obvious that two questions are involved: first, whether the pursuit and killing of fur-seals in certain parts of the open sea is, from the point of view of international morality, an offense *contra bonos mores*; and secondly, whether, if such be the case, this fact justifies the seizure on the high seas and subsequent confiscation in time of peace of the private vessels of a friendly nation.

It is an axiom of international maritime law that such action is only admissible in the case of piracy or in pursuance of special international agreement. This principle has been universally admitted by jurists, and was very distinctly laid down by President Tyler in his special message to Congress, dated the 27th February, 1843, when, after acknowledging the right to detain and search a vessel on suspicion of piracy, he goes on to say: "With this single exception, no nation has,

in time of peace, any authority to detain the ships of another upon the high seas, on any pretext whatever, outside the territorial jurisdiction."

Now, the pursuit of seals in the open sea, under whatever circumstances, has never hitherto been considered as piracy by any civilized state. Nor, even if the United States had gone so far as to make the killing of fur-seals piracy by their municipal law, would this have justified them in punishing offenses against such law committed by any persons other than their own citizens outside the territorial jurisdiction of the United States.

In the case of the slave trade, a practice which the civilized world has agreed to look upon with abhorrence, the right of arresting the vessels of another country is exercised only by special international agreement, and no one government has been allowed that general control of morals in this respect which Mr. Blaine claims on behalf of the United States in regard to seal-hunting.

But Her Majesty's Government must question whether this pursuit can of itself be regarded as *contra bonos mores*, unless and until, for special reasons, it has been agreed by international arrangement to forbid it. Fur-seals are indisputably animals *feræ naturæ*, and these have universally been regarded by jurists as *res nullius* until they are caught; no person, therefore, can have property in them until he has actually reduced them into possession by capture.

It requires something more than a mere declaration that the Government or citizens of the United States, or even other countries interested in the seal trade, are losers by a certain course of proceeding, to render that course an immoral one.

Her Majesty's Government would deeply regret that the pursuit of fur-seals on the high seas by British vessels should involve even the slightest injury to the people of the United States. If the case be proved, they will be ready to consider what measures can be properly taken for the remedy of such injury, but they would be unable on that ground to depart from a principle on which free commerce on the high seas depends.

The second argument advanced by Mr. Blaine is that the "fur-seal fisheries of Behring Sea had been exclusively controlled by the Government of Russia, without interference and without question, from their original discovery until the cession of Alaska to the United States in 1867," and that "from 1867 to 1886 the possession, in which Russia had been undisturbed, was enjoyed by the United States Government also without interruption or intrusion from any source."

I will deal with these two periods separately.

First, as to the alleged exclusive monopoly of Russia. After Russia, at the instance of the Russian-American Fur Company, claimed in 1821 the pursuits of commerce, whaling, and fishing from Behring Straits to the 51st degree of north latitude, and not only prohibited all foreign vessels from landing on the coasts and islands of the above waters, but also prevented them from approaching within 100 miles thereof, Mr. Quincy Adams wrote as follows to the United States minister in Russia:

The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions.

That the right of fishing thus asserted included the right of killing fur-bearing animals is shown by the case of the United States brig *Loriot*. That vessel proceeded to the waters over which Russia claimed

exclusive jurisdiction for the purpose of hunting the sea-otter, the killing of which is now prohibited by the United States statutes applicable to the fur-seal, and was forced to abandon her voyage and leave the waters in question by an armed vessel of the Russian navy. Mr. Forsyth, writing on the case to the American minister at St. Petersburg on the 4th of May, 1837, said :

It is a violation of the rights of the citizens of the United States, immemorially exercised and secured to them as well by the law of nations as by the stipulations of the first article of the convention of 1824, to fish in those seas, and to resort to the coast for the prosecution of their lawful commerce upon points not already occupied.

From the speech of Mr. Sumner when introducing the question of the purchase of Alaska to Congress, it is equally clear that the United States Government did not regard themselves as purchasing a monopoly. Having dealt with fur-bearing animals, he went on to treat of fisheries, and after alluding to the presence of different species of whales in the vicinity of the Aleutians said : "No sea is now *mare clausum* ; all of these may be pursued by a ship under any flag, except directly on the coast or within its territorial limit."

I now come to the statement that from 1867 to 1886 the possession was enjoyed by the United States with no interruption and no intrusion from any source. Her Majesty's Government can not but think that Mr. Blaine has been misinformed as to the history of the operations in Behring Sea during that period.

The instances recorded in Inclosure 1 in this dispatch are sufficient to prove from official United States sources that from 1867 to 1886 British vessels were engaged at intervals in the fur-seal fisheries with the cognizance of the United States Government. I will here by way of example quote but one.

In 1872 Collector Phelps reported the fitting out of expeditions in Australia and Victoria for the purpose of taking seals in Behring Sea, while passing to and from their rookeries on St. Paul and St. George Islands, and recommended that a steam-cutter should be sent to the region of Ounimak Pass and the islands of St. Paul and St. George.

Mr. Secretary Boutwell informed him, in reply, that he did not consider it expedient to send a cutter to interfere with the operations of foreigners, and stated : "In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore."

Before leaving this part of Mr. Blaine's argument, I would allude to his remark that "vessels from other nations passing from time to time through Behring's Sea to the Arctic Ocean in pursuit of whales have always abstained from taking part in the capture of seals," which he holds to be proof of the recognition of rights held and exercised first by Russia and then by the United States.

Even if the facts are as stated, it is not remarkable that vessels pushing on for the short season in which whales can be captured in the Arctic Ocean, and being fitted specially for the whale fisheries, neglected to carry boats and hunters for fur-seals or to engage in an entirely different pursuit.

The whalers, moreover, pass through Behring Sea to the fishing grounds in the Arctic Ocean in April and May as soon as the ice breaks up, while the great bulk of the seals do not reach the Pribylov Islands till June, leaving again by the time the closing of the ice compels the whalers to return.

The statement that it is "a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to their extinction" would admit of reply, and abundant evidence could be adduced on the other side. But as it is proposed that this part of the question should be examined by a committee to be appointed by the two Governments, it is not necessary that I should deal with it here.

Her Majesty's Government do not deny that if all sealing were stopped in Behring Sea except on the islands in possession of the lessees of the United States, the seal may increase and multiply at an even more extraordinary rate than at present, and the seal fishery on the island may become a monopoly of increasing value; but they can not admit that this is sufficient ground to justify the United States in forcibly depriving other nations of any share in this industry in waters which, by the recognized law of nations, are now free to all the world.

It is from no disrespect that I refrain from replying specifically to the subsidiary questions and arguments put forward by Mr. Blaine. Till the views of the two Governments as to the obligations attaching, on grounds either of morality or necessity, to the United States Government in this matter, have been brought into closer harmony, such a course would appear needlessly to extend a controversy which Her Majesty's Government are anxious to keep within reasonable limits.

The negotiations now being carried on at Washington prove the readiness of Her Majesty's Government to consider whether any special international agreement is necessary for the protection of the fur-sealing industry. In its absence they are unable to admit that the case put forward on behalf of the United States affords any sufficient justification for the forcible action already taken by them against peaceable subjects of Her Majesty engaged in lawful operations on the high seas.

"The President," says Mr. Blaine, "is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia."

Her Majesty's Government have no difficulty in making such a concession. In strict accord with the views which, previous to the present controversy, were consistently and successfully maintained by the United States, they have, whenever occasion arose, opposed all claims to exclusive privileges in the non-territorial waters of Behring Sea. The rights they have demanded have been those of free navigation and fishing in waters which, previous to their own acquisition of Alaska, the United States declared to be free and open to all foreign vessels.

That is the extent of their present contention and they trust that, on consideration of the arguments now presented to them, the United States will recognize its justice and moderation.

I have to request that you will read this dispatch to Mr. Blaine and leave a copy of it with him should he desire it.

I am, etc.,

SALISBURY.

[Inclosure.]

In 1870 Collector Phelps reported "the barque *Cyane* has arrived at this port (San Francisco) from Alaska, having on board 47 seal skins." (See Ex. Doc. No. 83, Forty-fourth Congress, first session.)

In 1872 he reported expeditions fitting out in Australia and Victoria for the purpose of taking seals in Behring Sea, and was informed that it was not expedient to interfere with them.

In 1874 Acting Secretary Sawyer, writing to Mr. Elliott, special agent, said:

"It having been officially reported to this Department by the collector of customs at Port Townsend, from Neesah Bay, that British vessels from Victoria cross over into American waters and engage in taking fur seals (which he represents are annually becoming more numerous on our immediate coast) to the great injury of our sealers, both white and Indian, you will give such proper attention to the examination of the subject as its importance may seem to you, after careful inquiry, to demand, and with a view to a report to the Department of all facts ascertained." (Ditto, May 4, No. 117, p. 114.)

In 1875, Mr. McIntyre, Treasury agent, described how "before proceeding to harsh measures" he had warned the captain of the *Cygnat*, who was shooting seals in Zapadne Bay, and stated that the captain appeared astonished that he was breaking the law. (Ditto, March 15, 1875, No. 130, p. 124.)

In 1880, the fur-seal trade of the British Columbia coast was of great importance. Seven vessels were then engaged in the fishery, of which the greater number were, in 1886 and 1887, seized by the United States Government in Behring Sea.

In 1884, Daniel and Alexander McLean, both British subjects, took the American schooner *San Diego* to Behring Sea, and were so successful that they returned there in 1885, from Victoria, with the *Mary Ellen* and the *Favourite*.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, May 23, 1890.

SIR: I have the honor to inform you that a statement having appeared in the newspapers to the effect that the United States revenue cruisers have received orders to proceed to Behring Sea for the purpose of preventing the exercise of the seal fishery by foreign vessels in non-territorial waters, and that statement having been confirmed yesterday by you, I am instructed by the Marquis of Salisbury to state to you that a formal protest by Her Majesty's Government against any such interference with British vessels will be forwarded to you without delay.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 26, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, in which you inform me that Her Britannic Majesty's Government will formally protest against certain action recently taken by this Government for the protection of the Alaskan seal fisheries.

I have, etc.,

JAMES G. BLAINE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 29, 1890.

SIR: Your note of the 23d instant, already acknowledged, informs this Government that you "have been instructed by the Marquis of Salisbury to state that Her Majesty's Government would forward without delay a protest" against the course which this Government has found it necessary, under the laws of Congress, to pursue in the waters of the Behring Sea.

In turn, I am instructed by the President to protest against the course of the British Government in authorizing, encouraging, and protecting vessels which are not only interfering with American rights in the Behring Sea, but which are doing violence as well to the rights of the civilized world. They are engaged in a warfare against seal life, disregarding all the regulations which lead to its protection and committing acts which lead ultimately to its destruction, as has been the case in every part of the world where the abuses which are now claimed as British rights have been practiced.

The President is surprised that such protest should be authorized by Lord Salisbury, especially because the previous declarations of his lordship would seem to render it impossible. On the 11th day of November, 1887, Lord Salisbury, in an official interview with the minister from the United States (Mr. Phelps), cordially agreed that "a code of regulations should be adopted for the preservation of the seals in Behring Sea from destruction at improper times, by improper means, by the citizens of either country." And Lord Salisbury suggested that Mr. Phelps "should obtain from his Government and submit to him (Lord Salisbury) a sketch of a system of regulations which would be adequate for the purpose." Further interviews were held during the following month of February (1888) between Lord Salisbury and the American minister, and between Lord Salisbury and the American minister accompanied by the Russian ambassador. In answer to Lord Salisbury's request Mr. Phelps submitted the "regulations" which the Government of the United States desired; and in a dispatch of February 25 Mr. Phelps communicated the following to Mr. Bayard, Secretary of State:

Lord Salisbury assents to your proposition, to establish by mutual arrangement between the governments interested, a close time for fur seals, between April 15 and November 1, and between 160 degrees of longitude west and 170 degrees of longitude east in the Behring Sea. And he will cause an act to be introduced into Parliament to give effect to this arrangement so soon as it can be prepared. In his opinion there is no doubt that the act will be passed.

He will also join the United States Government in any preventive measures it may be thought best to adopt, by orders issued to the naval vessels of the respective governments in that region.

Early in April (1888) the Russian ambassador in London, Mr. de Staal, advised the American chargé that the Russian Government "would like to have the regulations which might be agreed upon for the Behring Sea extended to that portion of the latter in which the Commander Islands are situated, and also to the sea of Okhotsk, in which Robben Island is situated."

On the 16th of April, at Lord Salisbury's invitation, the Russian ambassador and Mr. White, the American chargé (Mr. Phelps being absent from London), met at the foreign office for the purpose of discussing

with Lord Salisbury the details of the proposed conventional arrangement for the protection of seals in Behring Sea.

With a view to meeting the Russian Government's wishes respecting the waters surrounding Robben Island, His Lordship suggested that, besides the whole of Behring Sea, those portions of the Sea of Okhotsk and of the Pacific Ocean north of north latitude 47 should be included in the proposed arrangement. His Lordship intimated, furthermore, that the period proposed by the United States for a close time, from April 15 to November 1, might interfere with the trade longer than absolutely necessary for the protection of seals, and he suggested October 1, instead of a month later, as the termination of the period of seal protection. Furthermore, Lord Salisbury promised to have a draft convention prepared for submission to the Russian ambassador and the American minister.

On the 23d of April the American chargé was informed by Lord Salisbury that "it is now proposed to give effect to a seal convention by order in council, not by act of Parliament." It was understood that this course was proposed by Lord Salisbury in order that the regulations needed in Behring Sea might be promptly applied.

You will observe, then, that from the 11th of November, 1887, to the 23d of April, 1888, Lord Salisbury had in every form of speech assented to the necessity of a close season for the protection of the seals.

The shortest period which he named was from the 15th of April to the 1st of October—five and one-half months. In addition, his lordship suggested that the closed sea for the period named should include the whole of the Behring Sea and should also include such portion of the Sea of Okhotsk as would be necessary to protect the Russian seal fishery on Robben Island; that the closed season be extended as far south as the 47th degree of north latitude—120 miles south of the northern boundary of the United States on the Pacific Ocean. He promised further to draft a convention upon the subject between England, Russia, and the United States.

These assurances were given to the American minister, to the American chargé, to the Russian ambassador, and on more than one occasion to two of them together. The United States had no reason, therefore, to doubt that the whole dispute touching the seal fisheries was practically settled. Indeed to have distrusted it would have been to question the good faith of Lord Salisbury. In diplomatic intercourse between Great Britain and the United States, be it said to the honor of both governments, a verbal assurance from a minister has always been equal to his written pledge. Speaking the same language, there has been no room for misunderstanding between the representatives of the two governments, as may easily happen between those of different tongues. For a period of six months, therefore, without retraction or qualification, without the suggestion of a doubt or the dropping of a hint, the understanding between the two governments, on the assurance of Lord Salisbury, was as complete as language could make it.

On the 28th of April, five days after Lord Salisbury's last pointed assurance, five days after he had proposed to perfect the scheme, not by the delay of Parliament, but by the promptness of an order in council, the American chargé was informed that the act of Parliament would be necessary in addition to the order in council, and that neither act nor order could be drafted "until Canada is heard from."

For several weeks following April 28th, there were many calls by the American chargé at the foreign office to learn whether "Canada had been heard from." He called alone and called in company with the Rus-

sian ambassador. Finally, on the 20th of June, Lord Salisbury told him that an urgent telegram had been "sent to Canada a week ago with respect to the delay in its expedition," and that a reply had been "received by the secretary of state for the colonies, saying that the matter will be taken up immediately." Mr. White, relying entirely upon these assurances, ventured to "hope that shortly after Mr. Phelps's return the British Government will be in a condition to agree upon the terms of the proposed convention."

Mr. Phelps returned to London on the 22d of June, two days after Mr. White's interview with Lord Salisbury, and immediately after the urgent telegram had been sent to Canada. On the 28th of July Mr. Phelps had received no assurances from Lord Salisbury, and telegraphed the Department of State his "fear that owing to Canadian opposition we shall get no convention." In a dispatch to his Government of the 12th of September, he related having had interviews with Lord Salisbury respecting the convention, which, he says, had been "virtually agreed upon, except in its details." Mr. Phelps goes on to say :

The consideration of it has been suspended for communication by the British Government with the Canadian government, for which purpose an interval of several months had been allowed to elapse. During this long interval the attention of Lord Salisbury had been repeatedly called to the subject by the American legation, and on those occasions the answer received from him was that no reply from the Canadian authorities had arrived.

Mr. Phelps proceeds in the dispatch of September 12 to say :

I again pressed Lord Salisbury for the completion of the convention, as the extermination of seals by the Canadian vessels was understood to be rapidly proceeding. His lordship, in reply, did not question the propriety or the importance of taking measures to prevent the wanton destruction of so valuable an industry, in which, as he remarked, England had a large interest of its own ; but his lordship stated that the Canadian government objected to any such restrictions, and that until its consent could be obtained Her Majesty's Government was not willing to enter into the convention.

It was thus finally acknowledged that the negotiation into which Lord Salisbury had cordially entered, and to which he had readily agreed, even himself suggesting some of its most valuable details, was entirely subordinated to the judgment and desire of the Canadian government. This Government can not but feel that Lord Salisbury would have dealt more frankly if, in the beginning, he had informed Minister Phelps that no arrangement could be made unless Canada concurred in it, and that all negotiation with the British Government direct was but a loss of time.

When you, Mr. Minister, arrived in this country a year ago, there seemed the best prospect for a settlement of this question, but the Russian minister and the American Secretary of State have had the experiences of Mr. Phelps and the Russian ambassador in London repeated. In our early interviews there seemed to be as ready a disposition on your part to come to a reasonable and friendly adjustment as there has always been on our part to offer one. You will not forget an interview between yourself, the Russian minister, and myself, in which the lines for a close season in the Behring Sea laid down by Lord Salisbury were almost exactly repeated by yourself, and were inscribed on maps which were before us, a copy of which is in the possession of the Russian minister, and a copy also in my possession. A prompt adjustment seemed practicable—an adjustment which I am sure would have been honorable to all the countries interested. No obstacles were presented on the American side of the question. No insistence was made upon

the Behring Sea as *mare clausum*; no objection was interposed to the entrance of British ships at all times on all commercial errands through all the waters of the Behring Sea. But our negotiations, as in London, were suddenly broken off for many weeks by the interposition of Canada. When correspondence was resumed on the last day of April, you made an offer for a mixed commission of experts to decide the questions at issue.

Your proposition is that pelagic sealing should be prohibited in the Behring Sea during the months of May, June, October, November, and December, and that there should be no prohibition during the months of July, August, and September. Your proposition involved the condition that British vessels should be allowed to kill seals within 10 miles of the coast of the Pribylov Islands. Lord Salisbury's proposition of 1888 was that during the same months, for which the 10-mile privilege is now demanded, no British vessel hunting seals should come nearer to the Pribylov Islands than the 47th parallel of north latitude, about 600 miles.

The open season which you thus select for killing is the one when the areas around the breeding islands are most crowded with seals, and especially crowded with female seals going forth to secure food for the hundreds of thousands of their young of which they have recently been delivered. The destruction of the females, which, according to expert testimony, would be 95 per cent. of all which the sealing vessels might readily capture, would inflict deadly loss upon the rookeries. The destruction of the females would be followed by the destruction of their young on the islands, and the herds would be diminished the next year by this wholesale slaughter of the producing females and their offspring.

The 10-mile limit would give the marauders the vantage ground for killing the seals that are in the water by tens of thousands searching for food. The opportunity, under cover of fog and night, for stealing silently upon the islands and slaughtering the seals within a mile or even less of the keeper's residence, would largely increase the aggregate destruction. Under such conditions the British vessels could evenly divide with the United States, within the 3-mile limit of its own shores and upon the islands themselves, the whole advantage of the seal fisheries. The respect which the sealing vessels would pay to the 10-mile limit would be the same that wolves pay to a flock of sheep so placed that no shepherd can guard them. This arrangement, according to your proposal, was to continue for three months of each year, the best months in the season for depredations upon the seal herd. No course was left to the United States or to Russia but to reject the proposition.

The propositions made by Lord Salisbury in 1888 and the propositions made by Her Majesty's minister in Washington in 1890 are in significant contrast. The circumstances are the same, the conditions are the same, the rights of the United States are the same in both years. The position of England has changed, because the wishes of Canada have demanded the change. The result then with which the United States is expected to be content is that her rights within the Behring Sea and on the islands thereof are not absolute, but are to be determined by one of Her Majesty's provinces.

The British Government would assuredly and rightfully complain if an agreement between her representative and the representative of the United States should, without notice, be broken off by the United States on the ground that the State of California was not willing that it should be completed. California has a governor chosen independently of the

executive power of the National Government; Canada has a governor appointed by the British Crown. The legislature of California enacts laws with which the executive power of the United States has no right whatever to interfere; Canada enacts laws with which the executive power of Great Britain can interfere so far as absolutely to annul. Can the Government of the United States be expected to accept as final a decision of the Government of Great Britain that an agreement with the United States can not be fulfilled because the province of Canada objects?

This review of the circumstances which led to the present troubles on the Behring Sea question, has been presented by direction of the President in order to show that the responsibility does not rest with this Government. The change of policy made by Her Majesty's Government without notice and against the wish of this Government is, in the President's belief, the cause of all the differences that have followed. I am further instructed by the President to say that, while your proposals of April 30 can not be accepted, the United States will continue the negotiation in hope of reaching an agreement that may conduce to a good understanding and leave no cause for future dispute. In the President's opinion, owing to delays for which this Government is not responsible, it is too late to conclude such negotiation in time to apply its result the present season. He therefore proposes that Her Majesty's Government agree not to permit the vessels (which, in his judgment, do injury to the property of the United States) to enter the Behring Sea for this season, in order that time may be secured for negotiation that shall not be disturbed by untoward events or unduly influenced by popular agitation. If this offer be accepted, the President believes that before another season shall open the friendly relations existing between the two countries and the mutual desire to continue them will lead to treaty stipulations which shall be permanent, because just and honorable to all parties.

I have, etc.,

JAMES G. BLAINE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 2, 1890.

MY DEAR SIR JULIAN: I have had a prolonged interview with the President on the matters upon which we are endeavoring to come to an agreement touching the fur-seal question. The President expresses the opinion that an arbitration can not be concluded in time for this season. Arbitration is of little value unless conducted with the most careful deliberation. What the President most anxiously desires to know is whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the regulation which in 1888 he offered to make permanent. The President regards that as the step which will lead most certainly and most promptly to a friendly agreement between the two Governments.

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,
Washington, June 3, 1890.

DEAR MR. BLAINE: In reply to your letter of yesterday evening, touching the fur-seal question, I beg to state that I am in a position to answer at once the inquiry "Whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the regulation which in 1888 he offered to make permanent."

The words which I quote from your letter have reference no doubt to the proposal of the United States that British sealing vessels should be entirely excluded from the Behring Sea during the seal fishery season. I shall not attempt to discuss here whether what took place in the course of the abortive negotiations of 1888 amounted to an offer on the part of Lord Salisbury "to make such a regulation permanent."

It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied His Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case.

Her Majesty's Government are quite willing to adopt all measures which shall be satisfactorily proved to be necessary for the preservation of the fur-seal species, and to enforce such measures on British subjects by proper legislation. But they are not prepared to agree to such a regulation as is suggested in your letter for the present fishery season, as, apart from other considerations, there would be no legal power to enforce its observance on British subjects and British vessels.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 4, 1890.

SIR: I have your favor of the 3d instant. The President sincerely regrets that his considerate and most friendly proposal for adjustment of all troubles connected with the Behring Sea should be so promptly rejected. The paragraph in your note in which you refer to Lord Salisbury's position needs explanation. I quote it in full:

It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied His Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case.

I do not know what may have been the "examination of the question" that has satisfied Lord Salisbury "that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case." I only know that the most extreme measure proposed came from Lord Salisbury himself in suggesting a close season as far south as the forty-seventh parallel of latitude, to last from April 15 to October 1 in each year.

At the close of his negotiations with Mr. Phelps in September, 1888, His Lordship, still approving the "measures to prevent the wanton

destruction of so valuable an industry," declared, apparently with regret, that "the Canadian Government objected to any such restrictions" (*i. e.*, as those which His Lordship had in part proposed and wholly approved), and that "until its consent would be obtained Her Majesty's Government was not willing to enter into the convention." It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiations, because, in his own phrase, "the Canadian Government objected." He assigned no other reason whatever, and until your note of the 2d was received this Government had never been informed that His Lordship entertained any other objections than those expressed in September, 1888.

It is proper to recall to your recollection that at divers times in personal conversation I have proposed to you, on behalf of this Government, a close season, materially shorter, in point of time, than was voluntarily offered by Lord Salisbury and much less extended in point of space. Instead of going as far south as the forty-seventh parallel I have frequently indicated the willingness of this Government to take the dividing line between the Pacific Ocean and the Behring Sea—the line which is tangent to the southernmost island of the Aleutian group—being as near as may be the fiftieth parallel of north latitude.

Early in April, you will remember, you suggested to me the advantage that might follow if the sailing of the revenue cutters for Behring Sea could be postponed till the middle of May. Though that was a matter entirely under the control of the Treasury Department, Secretary Windom promptly complied with your request, and by the President's direction a still longer postponement was ordered in the hope that some form of equitable adjustment might be proposed by Her Majesty's Government. Even the revenue cutter, which annually passes through Behring Sea carrying supplies to the relief station at Point Barrow in the Arctic Ocean—seventy-second degree of north latitude—was held back lest her appearance in Behring Sea might be misrepresented as a non-observance of the understanding between us.

It is perfectly clear that if your claim for British vessels to kill seals within 10 miles of the Pribylov Islands, directly after the mothers are delivered of their young, should be granted, the Behring Sea would swarm with vessels engaged in sealing—not forty or fifty, as now, but many hundreds, through the summer months. If that privilege should be given to Canadian vessels, it must, of course, be conceded at once to American vessels. If the rookeries are to be thrown open to Canadians, they would certainly, as matter of common right, be thrown open to citizens of the United States. The seal mothers, which require an area of from 40 to 50 miles from the islands, on all sides, to secure food for their young, would be slaughtered by hundreds of thousands, and in a brief space of time there would be no seals in the Behring Sea. Similar causes have uniformly produced similar effects. Seal rookeries in all parts of the world have been destroyed in that way. The present course of Great Britain will produce the same effect on the only seal rookery of any value left in the waters of the oceans and seas of the globe. The United States have leased the privilege of sealing because only in that way can the rookeries be preserved, and only in that way can this Government derive a revenue from the Pribylov Islands. Great Britain would perhaps gain something for a few years, but it would be at the expense of destroying a valuable interest belonging to a friendly nation—an interest which the civilized world desires to have preserved.

I observe that you quote Treasury Agent George R. Tingle in your dispatch of April 30 as showing that, notwithstanding the depredations

of marauders, the total number of seals had increased in the Behring Sea. The rude mode of estimating the total number can readily lead to mistakes; and other agents have differed from Mr. Tingle. But aside from the correctness or incorrectness of Mr. Tingle's conclusions on that point, may I ask upon what grounds do the Canadian vessels assert a claim, unless they assume that they have a title to the increase of the seal herd? If the claim of the United States to the seals of the Pribylov Islands be well founded, we are certainly entitled to the increase as much as a sheep-grower is entitled to the increase of his flock.

Having introduced Mr. Tingle, who has very extensive knowledge touching the seals in Behring Sea, as well as the habits of the Canadian marauders, I trust you will not discredit his testimony. The following statement made by Mr. Tingle in his official report to the Treasury Department at the close of the season of 1887 is respectfully commended to your consideration:

I am now convinced from what I gather in questioning the men belonging to captured schooners and from reading the logs of the vessels, that not more than one seal in ten killed and mortally wounded is landed on the boats and skinned; thus you will see the wanton destruction of seal life without any benefit whatever. I think 30,000 skins taken this year is a low estimate on this basis; 300,000 fur-seals were killed to secure that number, or three times as many as the Alaska Commercial Company are allowed by law to kill. You can readily see that this great slaughter of seals will, in a few years, make it impossible for 100,000 skins to be taken on the islands by the lessees. I earnestly hope more rigorous measures will be adopted by the Government in dealing with these destructive law-breakers.

Both of Mr. Tingle's statements are made in his official capacity, and in both cases he had no temptation to state anything except what he honestly believed to be the truth.

The President does not conceal his disappointment that even for the sake of securing an impartial arbitration of the question at issue, Her Majesty's Government is not willing to suspend, for a single season, the practice which Lord Salisbury described in 1888 as "the wanton destruction of a valuable industry," and which this Government has uniformly regarded as an unprovoked invasion of its established rights.

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefoot to Mr. Blaine.

WASHINGTON, June 6, 1890.

SIR: I have the honor to acknowledge the receipt of your official note of the 4th instant, commenting upon the reply which I returned to the inquiry contained in your letter of the 2d instant, whether the Marquis of Salisbury would, in order to promote a friendly solution of the fur-seal question, agree to the total exclusion of British sealers from the Behring Sea during the present fishery season. You express the regret of the President that "his considerate and most friendly proposal for the adjustment of all trouble connected with the Behring Sea should be so promptly rejected."

I have this day transmitted a copy of your note to Lord Salisbury, and pending further instructions I will abstain from pursuing the discussion on the various points with which it deals, especially as the

views of Her Majesty's Government on the main questions involved are stated with great precision in Lord Salisbury's dispatch of the 22d of May, which I had the honor to read to you yesterday, and of which, in accordance with your desire, I left a copy in your hands. I would only observe that as regards the sufficiency or insufficiency of the radius of ten miles around the rookeries "within which Her Majesty's Government proposed that sealers should be excluded" no opportunity was afforded me of discussing the question before the proposals of Her Majesty's Government were summarily rejected.

I may mention, also, that I fear there has been some misapprehension as regards a request which you appear to have understood me to make respecting the date of the sailing of United States revenue-cutters for Behring Sea. I have no recollection of having made any suggestion with reference to those revenue-cutters, except that their commanders should receive explicit instructions not to apply the municipal law of the United States to British vessels in Behring Sea outside of territorial waters.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Blaine.

[Extract from telegram from the Marquis of Salisbury.]

(Received June 9, 1890.)

Lord Salisbury regrets that the President of the United States should think him wanting in conciliation, but his lordship can not refrain from thinking that the President does not appreciate the difficulty arising from the law of England.

It is entirely beyond the power of Her Majesty's Government to exclude British or Canadian ships from any portion of the high seas, even for an hour, without legislative sanction. Her Majesty's Government have always been willing, without pledging themselves to details on the questions of area and date, to carry on negotiations, hoping thereby to come to some arrangement for such a close season as is necessary in order to preserve the seal species from extinction, but the provisions of such an arrangement would always require legislative sanction so that the measures thereby determined may be enforced.

Lord Salisbury does not recognize the expressions attributed to him. He does not think that he can have used them, at all events, in the context mentioned.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 11, 1890.

SIR: I have shown to the President the extract from the telegram of Lord Salisbury of June 9, in which his lordship states that "it is beyond the power of Her Majesty's Government to exclude British or

Canadian ships from any portion of the high seas, even for an hour, without legislative sanction."

Not stopping to comment upon the fact that his lordship assumes the waters surrounding the Pribylov Islands to be the "high seas," the President instructs me to say that it would satisfy this Government if Lord Salisbury would by public proclamation simply request that vessels sailing under the British flag should abstain from entering the Behring Sea for the present season. If this request shall be complied with, there will be full time for impartial negotiations, and, as the President hopes, for a friendly conclusion of the differences between the two Governments.

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 11, 1890.

SIR: I have the honor to acknowledge your note of this day with reference to the passage in a telegram from the Marquis of Salisbury, which I communicated to you at our interview of the 9th instant, to the effect that "it is beyond the power of Her Majesty's Government to exclude British or Canadian ships from any portion of the high seas, even for an hour, without legislative action."

You inform me that without commenting on the fact that his lordship assumes the waters surrounding the Pribylov Islands to be the high seas, the President instructs you to say that it would satisfy your Government if Lord Salisbury would by public proclamation simply request that vessels sailing under the British flag should abstain from entering the Behring Sea for the present season. You add, if this request shall be complied with, there will be full time for impartial negotiations, and, as the President hopes, for a friendly conclusion of the differences between the two Governments.

I have telegraphed the above communication to Lord Salisbury, and I await his lordship's instructions thereon. In the meanwhile I take this opportunity of informing you that I reported to his lordship, by telegraph, that at the same interview I again pressed you for an assurance that British sealing vessels would not be interfered with in the Behring Sea by United States revenue cruisers while the negotiations continued, but you replied that you could not give such assurance. I trust this is not a final decision, and that in the course of the next few days, while there is yet time to communicate with the commanders, instructions will be sent to them to abstain from such interference.

It is in that hope that I have delayed delivering the formal protest of Her Majesty's Government announced in my note of the 23d of May.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, *June 14, 1890.*

SIR: With reference to the note which I had the honor to address to you on the 11th instant, I desire to express my deep regret at having failed up to the present time to obtain from you the assurance, which I had hoped to receive, that during the continuance of our negotiations for the settlement of the fur-seal fishery question British sealing vessels would not be interfered with by United States revenue cruisers in the Behring Sea outside of territorial waters.

Having learned from statements in the public press and from other sources that the revenue cruisers *Rush* and *Corwin* are now about to be dispatched to the Behring Sea, I can not, consistently with the instructions I have received from my Government, defer any longer the communication of their formal protest announced in my notes of the 23d ultimo and the 11th instant against any such interference with British vessels.

I have accordingly the honor to transmit the same herewith.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Protest.

(Received June 14, 12:35, 1890.)

The undersigned, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has the honor, by instruction of his Government, to make to the Hon. James G. Blaine, Secretary of State of the United States, the following communication:

Her Britannic Majesty's Government have learned with great concern, from notices which have appeared in the press, and the general accuracy of which has been confirmed by Mr. Blaine's statements to the undersigned, that the Government of the United States have issued instructions to their revenue cruisers about to be dispatched to Behring Sea, under which the vessels of British subjects will again be exposed, in the prosecution of their legitimate industry on the high seas, to unlawful interference at the hands of American officers.

Her Britannic Majesty's Government are anxious to coöperate to the fullest extent of their power with the Government of the United States in such measures as may be found to be expedient for the protection of the seal fisheries. They are at the present moment engaged in examining, in concert with the Government of the United States, the best method of arriving at an agreement upon this point. But they can not admit the right of the United States of their own sole motion to restrict for this purpose the freedom of navigation of Behring Sea, which the United States have themselves in former years convincingly and successfully vindicated, nor to enforce their municipal legislation against British vessels on the high seas beyond the limits of their territorial jurisdiction.

Her Britannic Majesty's Government are therefore unable to pass over without notice the public announcement of an intention on the part of the Govern-

ment of the United States to renew the acts of interference with British vessels navigating outside the territorial waters of the United States, of which they have previously had to complain.

The undersigned is in consequence instructed formally to protest against such interference, and to declare that Her Britannic Majesty's Government must hold the Government of the United States responsible for the consequences that may ensue from acts which are contrary to the established principles of international law.

The undersigned, etc.,

JULIAN PAUNCEFOTE.

JUNE 14, 1890.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, *June 27, 1890.*

SIR: I did not fail to transmit to the Marquis of Salisbury a copy of your note of the 11th instant, in which, with reference to his lordship's statement that British legislation would be necessary to enable Her Majesty's Government to exclude British vessels from any portion of the high seas "even for an hour," you informed me, by desire of the President, that the United States Government would be satisfied "if Lord Salisbury would by public proclamation simply request that vessels sailing under the British flag should abstain from entering the Behring Sea during the present season."

I have now the honor to inform you that I have been instructed by Lord Salisbury to state to you in reply that the President's request presents constitutional difficulties which would preclude Her Majesty's Government from acceding to it, except as part of a general scheme for the settlement of the Behring Sea controversy, and on certain conditions which would justify the assumption by Her Majesty's Government of the grave responsibility involved in the proposal.

Those conditions are:

I. That the two Governments agree forthwith to refer to arbitration the question of the legality of the action of the United States Government in seizing or otherwise interfering with British vessels engaged in the Behring Sea, outside of territorial waters, during the years 1886, 1887, and 1889.

II. That, pending the award, all interference with British sealing vessels shall absolutely cease.

III. That the United States Government, if the award should be adverse to them on the question of legal right, will compensate British subjects for the losses which they may sustain by reason of their compliance with the British proclamation.

Such are the three conditions on which it is indispensable, in the view of Her Majesty's Government, that the issue of the proposed proclamation should be based.

As regards the compensation claimed by Her Majesty's Government for the losses and injuries sustained by British subjects by reason of the action of the United States Government against British sealing vessels in the Behring Sea during the years 1886, 1887, and 1889, I have already informed Lord Salisbury of your assurance that the United States Government would not let that claim stand in the way of an amicable ad-

justment of the controversy, and I trust that the reply which, by direction of Lord Salisbury, I have now the honor to return to the President's inquiry, may facilitate the attainment of that object for which we have so long and so earnestly labored.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 30, 1890.

SIR: On the 5th instant you read to me a dispatch from Lord Salisbury dated May 22, and by his instruction you left with me a copy. His Lordship writes in answer to my dispatch of the 22d January last. At that time, writing to yourself touching the current contention between the Governments of the United States and Great Britain as to the jurisdiction of the former over the waters of the Behring Sea, I made the following statement:

The Government of the United States has no occasion and no desire to withdraw or modify the positions which it has at any time maintained against the claims of the Imperial Government of Russia. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska was part of the Russian Empire. Nor is the Government of the United States disposed to exercise any less power or authority than it was willing to concede to the Imperial Government of Russia when its sovereignty extended over the territory in question. The President is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

In answer to this declaration Lord Salisbury contends that Mr. John Quincy Adams, when Secretary of State under President Monroe, protested against the jurisdiction which Russia claimed over the waters of Behring Sea. To maintain this position his lordship cites the words of a dispatch of Mr. Adams, written on July 23, 1823, to Mr. Henry Middleton, at that time our minister at St. Petersburg. The alleged declarations and admissions of Mr. Adams in that dispatch have been the basis of all the arguments which Her Majesty's Government has submitted against the ownership of certain properties in the Behring Sea which the Government of the United States confidently assumes. I quote the portion of Lord Salisbury's argument which includes the quotation from Mr. Adams:

After Russia, at the instance of the Russian-American Fur Company, claimed in 1821 the pursuits of commerce, whaling, and fishing from Behring's Straits to the 51st degree of north latitude, and not only prohibited all foreign vessels from landing on the coasts and islands of the above waters, but also prevented them from approaching within 100 miles thereof, Mr. Quincy Adams wrote as follows to the United States minister in Russia:

"The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions."

The quotation which Lord Salisbury makes is unfortunately a most defective, erroneous, and misleading one. The conclusion is separated from the premise, a comma is turned into a period, an important qualification as to time is entirely erased without even a suggestion that it

had ever formed part of the text, and out of eighty-four words, logically and inseparably connected, thirty-five are dropped from Mr. Adams' paragraph in Lord Salisbury's quotation. No edition of Mr. Adams' work gives authority for his lordship's quotation; while the archives of this Department plainly disclose its many errors. I quote Lord Salisbury's version of what Mr. Adams said, and in juxtaposition produce Mr. Adams's full text as he wrote it:

[Lord Salisbury's quotation from Mr. Adams.]

The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions.

[Full text of Mr. Adams' paragraph.]

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, *after the peace of 1783*, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, *which so far as Russian rights are concerned, are confined to certain islands north of the fifty-fifth degree of latitude, and have no existence on the continent of America.*

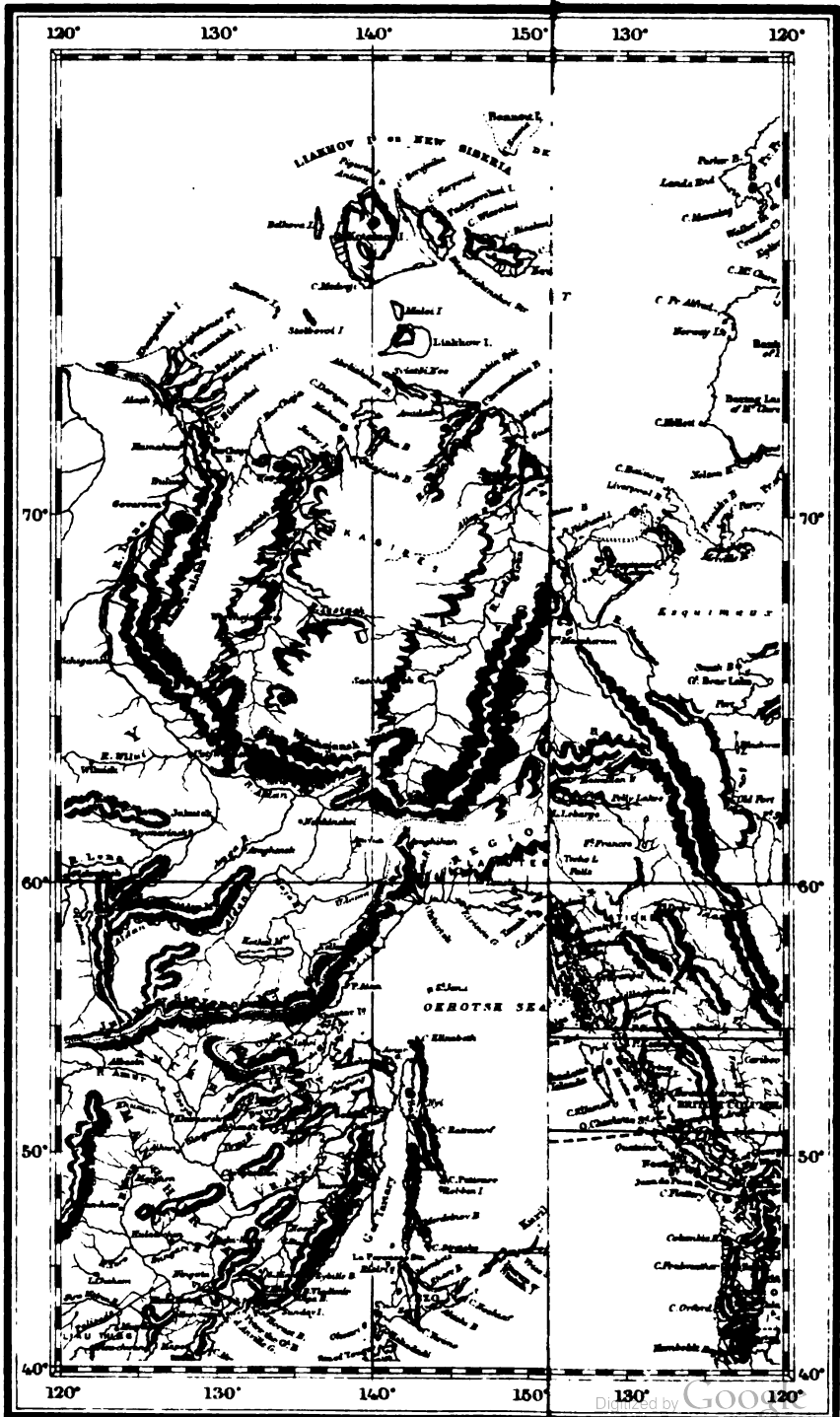
The words in italics are those which are left out of Mr. Adams' paragraph in the dispatch of Lord Salisbury. They are precisely the words upon which the Government of the United States founds its argument in this case. Conclusions or inferences resting upon the paragraph, with the material parts of Mr. Adams' text omitted, are of course valueless.

The first object is to ascertain the true meaning of Mr. Adams' words which were omitted by Lord Salisbury. "Russian rights," said Mr. Adams, "are confined to certain islands north of the 55th degree of latitude." The islands referred to are as easily recognized to-day as when Mr. Adams described their situation sixty-seven years ago. The best known among them, both under Russian and American jurisdiction, are Sitka and Kadiak; but their whole number is great. If Mr. Adams literally intended to confine Russian rights to those islands, all the discoveries of Vitus Behring and other great navigators are brushed away by one sweep of his pen, and a large chapter of history is but a fable.

But Mr. Adams goes still farther. He declares that "Russian rights have no existence on the continent of America." If we take the words of Mr. Adams with their literal meaning, there was no such thing as "Russian Possessions in America," although forty-four years after Mr. Adams wrote these words, the United States paid Russia seven millions two hundred thousand dollars for these "Possessions" and all the rights of land and sea connected therewith.

This construction of Mr. Adams' language can not be the true one. It would be absurd on its face. The title to that far northern territory was secure to Russia as early as 1741; secure to her against the claims of all other nations; secure to her thirty-seven years before Captain Cook had sailed into the North Pacific; secure to her more than half a century before the United States had made good her title to Oregon. Russia was in point of time the first power in this region by right of discovery. Without immoderate presumption she might have challenged the rights of others to assumed territorial possessions; but no nation had shadow of cause or right to challenge her title to the vast region of land and water which, before Mr. Adams was Secretary of State, had become known as the "Russian Possessions."

MAP TO



Mr. Adams' meaning was not, therefore, and indeed could not be, what Lord Salisbury assumed. As against such interpretation I shall endeavor to call his lordship's attention to what this Government holds to be the indisputable meaning of Mr. Adams' entire paragraph. To that end a brief review of certain public transactions and a brief record of certain facts will be necessary.

At the close of the year 1799, the Emperor Paul, by a ukase, asserted the exclusive authority of Russia over the territory from the Behring Strait down to the fifty-fifth degree of north latitude on the American coast, following westward "by the Aleutian, Kurile, and other islands" practically inclosing the Behring Sea. To the Russian American Company, which was organized under this ukase, the Emperor gave the right "to make new discoveries" in that almost unknown region, and "to occupy the new land discovered" as "Russian possessions." The Emperor was assassinated before any new discoveries were announced, but his successor, the Emperor Alexander I, inherited the ambition and the purpose of his father, and, in a new ukase of September 4, 1821, asserted the exclusive authority of Russia from Behring Strait southward to the fifty-first degree of north latitude on the American coast, proclaiming his authority, at the same time, on the Asiatic coast as far south as the forty-fifth degree, and forbidding any vessel to approach within 100 miles of land on either continent. I quote the two sections of the ukase that contain the order and the punishment:

SECTION 1. The transaction of commerce, and the pursuit of whaling and fishing, or any other industry on the islands, in the harbors and inlets, and, in general, all along the northwestern coast of America from Behring Strait to the fifty-first parallel of northern latitude, and likewise on the Aleutian Islands and along the eastern coast of Siberia, and on the Kurile Islands; that is, from Behring Strait to the southern promontory of the island of Urup, viz, as far south as latitude forty-five degrees and fifty minutes north, are exclusively reserved to subjects of the Russian Empire.

SEC. 2. Accordingly, no foreign vessel shall be allowed either to put to shore at any of the coasts and islands under Russian dominion as specified in the preceding section, or even to approach the same to within a distance of less than 100 Italian miles. Any vessel contravening this provision shall be subject to confiscation with her whole cargo.

Against *this larger claim of authority* (viz, extending farther south on the American coast to the 51st degree of north latitude), Mr. Adams vigorously protested. In a dispatch of March 30, 1822, to Mr. Poletica, the Russian minister at Washington, Mr. Adams said:

This ukase now for the first time extends the claim of Russia on the northwest coast of America to the 51st degree of north latitude.

And he pointed out to the Russian minister that the only foundation for the new pretension of Russia was the existence of a small settlement, situated, not on the American continent, but on a small island in latitude 57—Novo Archangelsk, now known as Sitka.

Mr. Adams protested, not against the ukase of Paul, but against the ukase of Alexander; not wholly against the ukase of Alexander, but only against his extended claim of sovereignty southward on the continent to the 51st degree north latitude. In short, Mr. Adams protested, not against the old possessions, but against the new pretensions of Russia on the northwest coast of America—pretensions to territory claimed by the United States and frequented by her mariners since the peace of 1783—a specification of time which is dropped from Lord Salisbury's quotation of Mr. Adams, but which Mr. Adams pointedly used to fix the date when the power of the United States was visibly exercised on the coast of the Pacific Ocean.

The names and phrases at that time in use to describe the geography

included within the area of this dispute, are confusing and at certain points apparently contradictory and irreconcilable. Mr. Adams' denial to Russia of the ownership of territory on "the Continent of America" is a fair illustration of this singular contradiction of names and places. In the same way the phrase "Northwest coast" will be found, beyond all possible doubt, to have been used in two senses, one including the northwest coast of the Russian possessions, and one to describe the coast whose northern limit is the 60th parallel of north latitude.

It is very plain that Mr. Adams' phrase "the continent of America," in his reference to Russia's possessions, was used in a *territorial* sense, and not in a *geographical* sense. He was drawing the distinction between the territory of "America" and the territory of the "Russian possessions." Mr. Adams did not intend to assert that these territorial rights of Russia had no existence on the continent of North America. He meant that they did not exist as the ukase of the Emperor Alexander had attempted to establish them—southward of the Aleutian peninsula and on that distinctive part of the continent claimed as the territory of the United States. "America" and the "United States" were then, as they are now, commonly used as synonymous.

British statesmen at the time used the phrase precisely as Mr. Adams did. The possessions of the crown were generically termed *British America*. Great Britain and the United States harmonized at this point and on this territorial issue against Russia. Whatever disputes might be left by these negotiations for subsequent settlement between the two powers there can be no doubt that at that time they had a common and very strong interest against the territorial aggrandizement of Russia. The British use of the phrase is clearly seen in the treaty between Great Britain and Russia, negotiated in 1825, and referred to at length in a subsequent portion of this dispatch. A publicist as eminent as Stratford Canning opened the third article of that treaty in these descriptive words:

The line of demarcation between the possessions of the high contracting parties, upon the coast of the continent, and the islands of America to the northwest. . . .

Mr. Canning evidently distinguished "the islands of America" from the "islands of the Russian possessions," which were far more numerous; and by the use of the phrase "*to the Northwest*" just as evidently limited the coast of *the Continent* as Mr. Adams limited it, in that direction, by the Alaskan peninsula. A concurrence of opinion between John Quincy Adams and Stratford Canning, touching any public question, left little room even for suggestion by a third person.

It will be observed as having weighty significance that the Russian ownership of the Aleutian and Kurile Islands (which border and close in the Behring Sea, and by the dip of the peninsula are several degrees south of latitude 55) was not disputed by Mr. Adams, and could not possibly have been referred to by him when he was limiting the island possessions of Russia. This is but another evidence that Mr. Adams was making no question as to Russia's ownership of all territory bordering on the Behring Sea. The contest pertained wholly to the territory on the northwest coast. The Emperor Paul's ukase, declaring his sovereignty over the Aleutian and Kurile Islands, was never questioned or denied by any power at any time.

Many of the acts of Mr. Adams' public life received interesting commentary and, where there was doubt, luminous interpretation in his personal diary, which was carefully kept from June 3, 1794, to January 1, 1848, inclusive. The present case affords a happy illustration of the

corroborative strength of the diary. During the progress of this correspondence Baron Tnyll, who had succeeded Mr. Poletica as Russian minister in Washington, called upon Mr. Adams at his office on July 17, 1823, six days before the date of the dispatch upon which I have been commenting, and upon which Lord Salisbury relies for sustaining his contention in regard to the Behring Sea. During an animated conversation of an hour or more between Mr. Adams and Baron Tnyll, the former said :

I told Baron Tnyll specially that we should contest the right of Russia to *any* territorial establishment on this continent.

It will be observed that Mr. Adams uses the same phrase in his conversation that has misled English statesmen as to the true scope and meaning of his dispatch of July 23, 1823. When he declared that we should "contest the right of Russia to any territorial establishment on this continent" (with the word "any" italicized), he no more meant that we should attempt to drive Russia from her ancient possessions than that we should attempt to drive England from the ownership of Canada or Nova Scotia. Such talk would have been absurd gasconade, and Mr. Adams was the last man to indulge in it. His true meaning, it will be seen, comes out in the next sentence when he declares :

I told Baron Tnyll that we should assume distinctly the principle that the American continents are no longer subjects for any *new* European colonial establishments.

In the message of President Monroe to the next Congress (the 18th) at its first session, December 2, 1823, he announced that at the proposal of the Russian Government the United States had agreed to "arrange by amicable negotiations the respective rights and interests of the two nations on the northwest coast of this continent." A similar proposal had been made by Russia to Great Britain and had been likewise agreed to. The negotiations in both cases were to be at St. Petersburg.

It was in connection with this subject, and in the same paragraph, that President Monroe spoke thus :

In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that *the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European power.*

This very brief declaration (in fact merely the three lines italicized), constitutes the famous "Monroe doctrine." Mr. Adams' words of the July preceding clearly foreshadowed this position as the permanent policy of the United States. The declaration removes the last doubt, if room for doubt had been left, that the reference made by Mr. Adams was to the future, and had no possible connection with the Russian rights existing for three-quarters of a century before the dispatch of 1823 was written.

It was evident from the first that the determined attitude of the United States, subsequently supported by Great Britain, would prevent the extension of Russian territory southward to the 51st parallel. The treaties which were the result of the meeting at St. Petersburg, already noted, marked the surrender on the part of Russia of this pretension and the conclusion was a joint agreement that 54 degrees and 40 minutes should be taken as the extreme southern boundary of Russia on the northwest coast, instead of the 55th degree, which was proclaimed by the Emperor Paul in the ukase of 1799.

The treaty between Russia and the United States was concluded on the 17th of April, 1824, and that between Russia and Great Britain ten

months later, on the 16th of February, 1825. In both treaties Russia acknowledges 54.40 as the dividing line. It was not determined which of the two nations owned the territory from 54.40 down to the 49th parallel, and it remained in dispute between Great Britain and the United States until its final adjustment by the "Oregon treaty," negotiated by Mr. Buchanan and Mr. Pakenham under the administration of Mr. Polk in 1846.

The Government of the United States has steadily maintained that in neither of these treaties with Russia was there any attempt at regulating or controlling, or even asserting an interest in, the Russian Possessions and the Behring Sea, which lie far to the north and west of the territory which formed the basis of the contention. This conclusion is indisputably proved by the protocols which were signed during the progress of the negotiation. At the fourth conference of the plenipotentiaries, on the 8th day of March (1824), the American minister, Mr. Henry Middleton, submitted to the Russian representative, Count Nesselrode, the following:

The dominion can not be acquired but by a real occupation and possession, and an intention (*animus*) to establish it is by no means sufficient.

Now, it is clear, according to the facts established, that neither Russia nor any other European power has the right of dominion upon the continent of America between the fiftieth and sixtieth degrees of north latitude.

Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

Therefore she has not the right of exclusion or of admission on these coasts, nor in these seas which are free seas.

The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or by a convention.

This is a clear proof of what is demonstrated in other ways, that the whole dispute between the United States and Russia and between Great Britain and Russia related to the Northwest coast, as Mr. Middleton expresses it, between the "50th and the 60th degrees of north latitude." This statement is in perfect harmony with Mr. Adams' paragraph when given in full. "The United States," Mr. Middleton insists, "have exercised navigation in the seas and commerce upon the coasts above mentioned, from the time of their independence;" but he does not say one word in regard to our possessing any rights of navigation or commerce in the Behring Sea. He declares that "Russia has not the right of exclusion or admission on these coasts [between the 50th and 60th degrees north latitude] nor in these seas which are *free* seas," evidently emphasizing "free" to distinguish those seas from the Behring Sea, which was recognized as being under Russian restrictions.

Mr. Middleton wisely and conclusively maintained that if Russia had no claim to the continent between the 50th and the 60th degrees north latitude, "still less could she have the dominion of the adjacent maritime territory," or, to make it more specific, "of the sea which washes these coasts." That sea was the Great Ocean, or the Pacific Ocean, or the South Sea, the three names being equally used for the same thing.

The language of Mr. Middleton plainly shows that the lines of latitude were used simply to indicate the "dominion" on the coast between the 50th and 60th parallels of north latitude.

The important declarations of Mr. Middleton, which interpret and enforce the contention of the United States, should be regarded as in-

disputable authority, from the fact that they are but a paraphrase of the instructions which Mr. Adams delivered to him for his guidance in negotiating the treaty with Count Nesselrode. Beyond all doubt they prove that Mr. Adams' meaning was the reverse of what Lord Salisbury infers it to be in the paragraph of which he quoted only a part.

The four principal articles of the treaty negotiated by Mr. Middleton are as follows:

ART. I. It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles:

ART. II. With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the Northwest coast.

ART. III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the Northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ART. IV. It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

The first article, by carefully mentioning the *Great Ocean* and describing it as the ocean "commonly called the Pacific Ocean or South Sea," evidently meant to distinguish it from some other body of water with which the negotiators did not wish to confuse it. Mr. Adams used the term "South Sea" in the dispatch quoted by Lord Salisbury, and used it with the same discriminating knowledge that pervades his whole argument on this question. If no other body of water existed within the possible scope of the treaty, such particularity of description would have had no logical meaning. But there was another body of water already known as the Behring Sea. That name was first given to it in 1817—according to English authority—seven years before the American treaty, and eight years before the British treaty, with Russia; but it had been known as a *sea*, separate from the ocean, under the names of the Sea of Kamchatka, the Sea of Otters, or the Aleutian Sea, at different periods before the Emperor Paul issued his ukase of 1799.

The second article plainly shows that the treaty is limited to the Great Ocean, as separate from the Behring Sea, because the limitation of the "Northwest coast" between the 50th and 60th degrees could apply to no other. That coast, as defined both by American and British negotiators at that time, did not border on the Behring Sea.

The third article shows the compromise as to territorial sovereignty on the Northwest coast. The United States and Great Britain had both claimed that Russia's just boundary on the coast terminated at the 60th degree north latitude, the southern border of the Aleutian peninsula. Russia claimed to the 51st parallel. They made a compromise by a nearly equal division. An exactly equal division would have given Russia 54.30; but 10 miles farther north Prince of Wales' Island presented a better geographical point for division, and Russia accepted

a little less than half the coast of which she had claimed all and 54.40 was thus established as the dividing point.

The fourth article of the treaty necessarily grew out of the claims of Russia to a share of the Northwest coast in dispute between the United States and Great Britain. Mr. Adams, in the instruction to Mr. Middleton so often referred to, says:

By the third article of the convention between the United States and Great Britain, of the 20th of October, 1818, it was agreed that any country that might be claimed by either party on the Northwest coast of America, westward of the Stony Mountains, should, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from that date, to the vessels, citizens, and subjects of the two powers, without prejudice to the claims of either party or of any other state.

You are authorized to propose an article of the same import for a term of ten years from the signature of a joint convention between the United States, Great Britain, and Russia.

It will be observed that the fourth article relates solely to the "Northwest coast of America" so well understood as the coast of the Pacific Ocean, between the 50th and the 60th degrees north latitude, and therefore does not in the remotest degree touch the Behring Sea or the land bordering upon it.

The several articles in the treaty between Great Britain and Russia, February 16, 1825, that could have any bearing on the pending contention are as follows:

Articles I and II (substantially the same as in the treaty between Russia and the United States).

ARTICLE III. The line of demarcation between the possessions of the high contracting parties, upon the coast of the continent, and the islands of America to the Northwest shall be drawn in the manner following:

Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third degrees of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called *Portland Channel*, as far as the point of the continent where it strikes the fifty-sixth degree of north latitude; from this last mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude (of the same meridian); and, finally, from the said point of intersection the said meridian line of the one hundred and forty-first degree in its prolongation as far as the frozen ocean shall form the limit between the Russian and British possessions on the continent of America to the northwest.

Article V. (Substantially the same as Article III of the treaty between Russia and the United States.)

ARTICLE VI. It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating freely and without any hindrance whatever all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III of the present convention.

ARTICLE VII. It is also understood that, for the space of ten years from the signature of the present convention, the vessels of the two powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent without any hindrance whatever all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III, for the purposes of fishing and of trading with the natives.

After the analysis of the articles in the American treaty there is little in the English treaty that requires explanation. The two treaties were draughted under circumstances and fitted to conditions quite similar. There were some differences because of Great Britain's ownership of British America. But these very differences corroborate the position of the United States. This is most plainly seen in Article VI. By that

article the subjects of Her Britannic Majesty were guarantied the right of navigating freely the rivers emptying into the Pacific Ocean and crossing the *line of demarcation upon the line of coast described in Article III.* The line of demarcation is described in Article III as following "the summit of the mountains situated parallel to the coast as far as the point of intersection of the one hundred and forty-first degree of west longitude." Article IV, qualifying Article III, specifies that "wherever the summit of the mountains which extend in a direction parallel to the coast, from the fifty-sixth degree of north latitude to the point of intersection of the one hundred and forty-first degree of west longitude, shall prove to be at a distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and shall never exceed the distance of ten marine leagues therefrom."

By both these articles the line of demarcation ceases to have any parallel relation to the coast when it reaches the point of intersection of the one hundred and forty-first degree of west longitude.

From that point the one hundred and forty-first degree of west longitude, as far as it extends continuously on land northward, is taken as the boundary between the territories of the two powers. It is thus evident that British subjects were guarantied the right of navigating only such rivers as crossed the line of demarcation *while it followed the line of coast.* They were limited, therefore, to the rivers that emptied into the Pacific Ocean between 54:40 and 60 degrees north latitude, the latter being the point on the coast opposite the point where the line of demarcation diverges—Mount St. Elias.

By this agreement Great Britain was excluded from all rivers emptying into the Behring Sea, including the great Yukon and its affluent, the Porcupine, which rise and for a long distance flow in British America. So complete was the exclusion from Behring Sea that Great Britain surrendered in this case a doctrine which she had aided in impressing upon the Congress of Vienna for European rivers. She did not demand access to the sea from a river whose source was in her territory. She consented, by signing the treaty of 1825, to such total exclusion from the Behring Sea as to forego following her own river to its mouth in that sea.

It shows a curious association of political events that in the Washington treaty of 1871 the United States conceded to Great Britain the privilege of navigating the Yukon and its branch, the Porcupine, to the Behring Sea in exchange for certain privileges conceded to the United States on the St. Lawrence. The request of Great Britain for the privilege of navigating the Yukon and Porcupine is a suggestive confession that it was withheld from her by Russia in the treaty of 1825—*withheld because the rivers flowed to the Behring Sea.*

The seventh article is practically a repetition of the fourth article in the treaty between Russia and the United States, and the privilege of fishing and trading with the natives is limited to the coast, mentioned in Article III, identically the same line of coast which they were at liberty to pass through to reach British America or to reach the coast from British America. They are excluded from going north of the prescribed point on the coast near Mount St. Elias, and are therefore kept out of Behring Sea.

It is to be noted that the negotiators of this treaty, in defining the boundary between the Russian and British possessions, cease to observe particularity exactly at the point on the coast where it is intersected by

the sixtieth parallel. From that point the boundary is designated by the almost indefinite prolongation northward of the one hundred and forty-first degree of longitude west. It is plain, therefore, that this treaty, like the Russo-American treaty, limited the "northwest coast" to that part of the coast between the fiftieth and sixtieth parallels of north latitude,—as fully set forth by Mr. Middleton in the protocols preceding the treaty between the United States and Russia. The negotiators never touched one foot of the boundary of the Behring Sea, whether on continent or island, and never even made a reference to it. Its nearest point, in Bristol Bay, was a thousand miles distant from the field of negotiation between the powers.

It must not be forgotten that this entire negotiation of the three powers proceeded with full knowledge and recognition of the ukase of 1821. While all questions touching the respective rights of the powers on the northwest coast between the fiftieth and sixtieth parallels were discussed and pressed by one side or the other, and finally agreed upon, the terms of the ukase of 1821, in which the Emperor set forth so clearly the rights claimed and exercised by Russia in the Behring Sea, were untouched and unquestioned. These rights were therefore admitted by all the powers negotiating as within the exercise of Russia's lawful authority then, and they were left inviolate by England during all the subsequent continuance of Russia's dominion over Alaska.

These treaties were therefore a practical renunciation, both on the part of England and the United States, of any rights in the waters of Behring Sea during the period of Russia's sovereignty. They left the Behring Sea and all its coasts and islands precisely as the ukase of Alexander in 1821 left them,—that is with a prohibition against any vessel approaching nearer to the coast than 100 Italian miles, under danger of confiscation. The original ukase of Alexander (1821) claimed as far south as the fifty-first degree of north latitude, with the inhibition of 100 miles from the coast applying to the whole.

The result of the protest of Mr. Adams, followed by the co-operation of Great Britain, was to force Russia back to 54.40 as her southern boundary. But there was no renunciation whatever on the part of Russia as to the Behring Sea, to which the ukase especially and primarily applied. As a piece of legislation this ukase was as authoritative in the dominions of Russia as an act of Parliament is in the dominions of Great Britain or an act of Congress in the territory of the United States. Except as voluntarily modified by Russia in the treaty with the United States, April 17, 1824, and in the treaty with Great Britain, February 16, 1825, the ukase of 1821 stood as the law controlling the Russian possessions in America until the close of Russia's ownership by transfer to this Government. Both the United States and Great Britain recognized it, respected it, obeyed it. It did not, as so many suppose, declare the Behring Sea to be *mare clausum*. It did declare that the waters, to the extent of 100 miles from the shores, were reserved for the subjects of the Russian Empire. Of course many hundred miles east and west and north and south, were thus intentionally left by Russia for the whale fishery and for fishing open and free to the world, of which other nations took large advantage. Perhaps in pursuing this advantage foreigners did not always keep 100 miles from the shore, but the theory of right on which they conducted their business unmolested was that they observed the conditions of the ukase.

But the 100-mile restriction performed the function for which it was specially designed in preventing foreign nations from molesting, disturbing, or by any possibility sharing in the fur trade. The fur trade formed

the principal, almost the sole employment of the Russian American Company. It formed its employment, indeed, to such a degree that it soon became known only as the Russian American *Fur* Company, and quite suggestively that name is given to the company by Lord Salisbury in the dispatch to which I am replying. While, therefore, there may have been a large amount of lawful whaling and fishing in the Behring Sea, the taking of furs by foreigners was always and under all circumstances, illicit.

Eighteen years after the treaty of 1825 (in 1843) Great Britain made a commercial treaty with Russia, based on the principle of reciprocity of advantages, but the rights of the Russian American Company, which under both ukases included the sovereignty over the sea to the extent of 100 miles from the shores, were reserved by special clause, in a separate and special article, signed after the principal articles of the treaty had been concluded and signed. Although British rights were enlarged with nearly all other parts of the Russian Empire, her relations with the Russian possessions and with the Behring Sea remained at precisely the same point where the treaty of 1825 had placed them.

Again in 1859 Great Britain still further enlarged her commercial relations with the Empire of Russia, and again the "possessions" and the Behring Sea were held firmly in their relations to the Russian American Company as they had been held in the treaty of 1843.

It is especially notable that both in the treaty of 1843 and the treaty of 1859 it is declared that "in regard to commerce and navigation in the Russian possessions on the north west coast of America the convention concluded at St. Petersburg, February 16, 1825, shall continue in force." The same distinction and the same restrictions which Mr. Adams made in regard to the north west coast of America were still observed, and Great Britain's access from or to the interior of the continent was still limited to that part of the coast between 54.40 and a point near Mount Saint Elias. The language of the three Russo-British treaties of 1825, 1843, and 1859 corresponds with that employed in Mr. Adams' dispatch to Mr. Middleton, to which reference has so frequently been made. This shows that the true meaning of Mr. Adams' paragraph is the key, and indeed the only key by which the treaties can be correctly interpreted and by which expressions apparently contradictory or unintelligible can be readily harmonized.

Immediately following the partial quotation of Mr. Adams's dispatch, Lord Salisbury quotes the case of the United States brig *Loriot* as having some bearing on the question relating to the Behring Sea. The case happened on the 15th of September, 1836, and Mr. Forsyth, Secretary of State, in a dispatch to the United States minister at St. Petersburg, declared the course of the Russians in arresting the vessel to be a violation of the rights of the citizens of the United States. He claimed that the citizens of the United States had the right immemorially as well as by the stipulations of the treaty of 1824 to fish in those waters.

Lord Salisbury's understanding of the case differs entirely from that held by the Government of the United States. The *Loriot* was not arrested in Behring Sea at all, nor was she engaged in taking furs. She was arrested, as Mr. Forsyth in his dispatch says, in latitude 54.55, more than sixty miles south of Sitka, on the "northwest coast," to which, and to which only, the treaty of 1824 referred. Russia upheld its action on the ground that the ten-year term provided in the fourth article of the treaty had closed two years before. The case was made the basis of an application on the part of the United States Government

for a renewal of that article. This application was pressed for several years, but finally and absolutely refused by the Russian Government. Under the claim of Russia that the term of ten years had expired, the United States failed to secure any redress in the *Loriot* case. With all due respect to Lord Salisbury's judgment, the case of the *Loriot* sustains the entire correctness of the position of the United States in this contention.

It only remains to say that whatever duty Great Britain owed to Alaska as a Russian province, whatever she agreed to do or to refrain from doing, touching Alaska and the Behring Sea, was not changed by the mere fact of the transfer of sovereignty to the United States. It was explicitly declared, in the sixth article of the treaty by which the territory was ceded by Russia, that "the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominions and appurtenances thereto." Neither by the treaty with Russia of 1825, nor by its renewal in 1843, nor by its second renewal in 1859, did Great Britain gain any right to take seals in Behring Sea. In fact, those treaties were a prohibition upon her which she steadily respected so long as Alaska was a Russian province. It is for Great Britain now to show by what law she gained rights in that sea after the transfer of its sovereignty to the United States.

During all the time elapsing between the treaty of 1825 and the cession of Alaska to the United States in 1867, Great Britain never affirmed the right of her subjects to capture fur-seal in the Behring Sea; and, as a matter of fact, her subjects did not, during that long period, attempt to catch seals in the Behring Sea. Lord Salisbury, in replying to my assertion that these lawless intrusions upon the fur-seal fisheries began in 1886, declares that they had occurred before. He points out one attempt in 1870, in which forty-seven skins were found on board an intruding vessel; in 1872 there was a rumor that expeditions were about to fit out in Australia and Victoria for the purpose of taking seals in the Behring Sea; in 1874 some reports were heard that vessels had entered the sea for that purpose; one case was reported in 1875; two cases in 1884; two also in 1885.

These cases, I may say without intending disrespect to his lordship, prove the truth of the statement which he endeavors to controvert, because they form just a sufficient number of exceptions to establish the fact that the destructive intrusion began in 1886. But I refer to them now for the purpose of showing that his lordship does not attempt to cite the intrusion of a single British sealer into the Behring Sea until after Alaska had been transferred to the United States. I am justified, therefore, in repeating the questions which I addressed to Her Majesty's Government on the 22d of last January, and which still remain unanswered, viz:

Whence did the ships of Canada derive the right to do, in 1886, that which they had refrained from doing for nearly ninety years?

Upon what grounds did Her Majesty's Government defend, in the year 1886, a course of conduct in the Behring Sea which had been carefully avoided ever since the discovery of that sea?

By what reasoning did Her Majesty's Government conclude that an act may be committed with impunity against the rights of the United States which had never been attempted against the same rights when held by the Russian Empire?

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 30, 1890.

SIR: In your note of the 29th of May last, which I duly transmitted to the Marquis of Salisbury, there are several references to communications which passed between the two Governments in the time of your predecessor.

I have now received a dispatch from Lord Salisbury, copy of which I have the honor to inclose, pointing out that there is some error in the impressions which you have gathered from the records in the State Department with respect to those communications.

I have, etc.,

JULIAN PAUNCEFOTE.

(Inclosure.)

The Marquis of Salisbury to Sir Julian Pauncefote.

No. 126.]

FOREIGN OFFICE, June 20, 1890.

SIR: I have to acknowledge your dispatch No. 83 of the 30th ultimo, inclosing copy of a note from Mr. Blaine dated the 29th ultimo.

It contains several references to communications which passed between the two Governments in the time of Mr. Blaine's predecessor, especially in the spring of 1888. Without referring at present to other portions of Mr. Blaine's note, I wish only now to point out some error in the impressions which he has gathered from the records in his office with respect to those communications. He states that on the 23d April of that year I informed the American chargé d'affaires, Mr. White, that it was proposed to give effect to a seal convention by order in council, not by act of Parliament. This was a mistake. It was very natural that Mr. White should not have apprehended me correctly when I was describing the somewhat complicated arrangements by which agreements of this kind are brought into force in England. But two or three days after the 23d April he called to make inquiry on the subject, and in reply to his question the following letter was addressed to him by my instructions:

FOREIGN OFFICE, April 27, 1888.

MY DEAR WHITE: Lord Salisbury desires me to express his regret that he is not yet in a position to make any further communication to you on the subject of the seal fisheries in Behring Sea. After his interview with you and M. de Staal he had to refer to the Canadian Government, the board of trade, and the admiralty, but has as yet only obtained the opinion of the admiralty. The next step is to bring a bill into Parliament.

Yours, etc.,

ERIC BARRINGTON.

On the 28th Mr. White replied:

LEGATION OF THE UNITED STATES,
London, April 28, 1888.

MY DEAR BARRINGTON: Thanks for your note, respecting the final sentence of which, "The next step is to bring a bill into Parliament," I must trouble you with a line.

I understood Lord Salisbury to say, when I saw him with M. de Staal, and again last week alone, that it is now proposed to give effect to the conventional arrangement for the protection of seals by an order in council, not by act of Parliament.

When Mr. Phelps left, the latter was thought necessary, and last week I received a telegram from the Secretary of State, asking me to obtain confidentially a copy of the proposed act of Parliament, with a view to assimilating our contemplated act of

Congress thereto. I replied, after seeing Lord Salisbury last Saturday, that there would be no bill introduced in Parliament, but an order in council.

May I ask if this be now incorrect, as, in that event, I should particularly like to correct my former statement by this day's mail.

To this the following reply was on the same date addressed to Mr. White:

FOREIGN OFFICE, *April 28, 1888.*

MY DEAR WHITE: Lord Salisbury is afraid that he did not make himself understood when last he spoke to you about the seal fisheries convention.

An act of Parliament is necessary to give power to our authorities to act on the provisions of the convention when it is signed. The order in council will be merely the machinery which the act will provide for the purpose of bringing its provisions into force. The object of this machinery is to enable the Government to wait till the other two powers are ready. But neither convention nor bill is drafted yet, because we have not got the opinions from Canada which are necessary to enable us to proceed.

Yours, etc.,

ERIC BARRINGTON.

It is evident from this correspondence that, if the United States Government was misled upon the 23d April into the belief that Her Majesty's Government could proceed in the matter without an act of Parliament, or could proceed without previous reference to Canada, it was a mistake which must have been entirely dissipated by the correspondence which followed in the ensuing week.

Mr. Blaine is also under a misconception in imagining that I ever gave any verbal assurance, or any promise of any kind, with respect to the terms of the projected convention. Her Majesty's Government always have been, and are still, anxious for the arrangement of a convention which shall provide whatever close time in whatever localities is necessary for the preservation of the fur-seal species. But I have always represented that the details must be the subject of discussion—a discussion to which those who are locally interested must of necessity contribute. I find the record of the following conversation about the date to which Mr. Blaine refers:

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *March 17, 1888.*

SIR: Since forwarding to you my dispatch No. 33 of the 22d ultimo, I have been in communication with the Russian ambassador at this court, and have invited his excellency to ascertain whether his Government would authorize him to discuss with Mr. Phelps and myself the suggestion made by Mr. Bayard in his dispatch of the 7th February, that concerted action should be taken by the United States, Great Britain, and other interested powers, in order to preserve from extermination the fur seals which at certain seasons are found in Behring Sea.

Copies of the correspondence on this question which has passed between M. de Staal and myself is inclosed herewith.

I request that you will inform Mr. Bayard of the steps which have been taken with a view to the initiation of negotiations for an agreement between the three powers principally concerned in the maintenance of the seal fisheries. But in so doing you should state that this action on the part of Her Majesty's Government must not be taken as an admission of the rights of jurisdiction in Behring Sea exercised there by the United States authorities during the fishing seasons of 1886-'87 and 1887-'88, nor as affecting the claims which Her Majesty's Government will have to present on account of the wrongful seizures which have taken place of British vessels engaged in the seal-fishing industry.

I am, etc.,

SALISBURY.

In pursuance of this dispatch, the suggestion made by Mr. Bayard, to which I referred, was discussed, and negotiations were initiated for an agreement between the three powers. The following dispatch con-

tains the record of what I believe was the first meeting between the three powers upon the subject :

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, April 16, 1888.

SIR: The Russian ambassador and the United States chargé d'affaires called upon me this afternoon to discuss the question of the seal fisheries in Behring Sea, which had been brought into prominence by the recent action of the United States.

The United States Government had expressed a desire that some agreement should be arrived at between the three Governments for the purpose of prohibiting the slaughter of the seals during the time of breeding; and, at my request, M. de Staal had obtained instructions from his Government on that question.

At this preliminary discussion it was decided *provisionally, in order to furnish a basis for negotiation, and without definitively pledging our Governments*, that the space to be covered by the proposed convention should be the sea between America and Russia north of the 47th degree of latitude; that the close time should extend from the 15th April to the 1st November; that during that time the slaughter of all seals should be forbidden, and vessels engaged in it should be liable to seizure by the cruisers of any of the three powers, and should be taken to the port of their own nationality for condemnation; that the traffic in arms, alcohol, and powder should be prohibited in all the islands of those seas; and that, as soon as the three powers had concluded a convention, they should join in submitting it for the assent of the other maritime powers of the northern seas.

The United States chargé d'affaires was exceedingly earnest in pressing on us the importance of dispatch, on account of the inconceivable slaughter that had been and was still going on in these seas. He stated that in addition to the vast quantity brought to market, it was a common practice for those engaged in the trade to shoot all seals they might meet in the open sea, and that of these a great number sank, so that their skins could not be recovered.

I am, etc.,

SALISBURY.

It was impossible to state more distinctly that any proposal made was provisional, and was merely made for the purpose of enabling the requisite negotiations to proceed. The subsequent discussion of these proposals was undoubtedly delayed in consequence of the length of time occupied by the Canadian Government in collecting from considerable distances the information which they required before their opinion on the subject could be thoroughly formed, and after that it was delayed, I believe, chiefly in consequence of the political events in the United States unconnected with this question. I think it desirable to correct the misconceptions which have arisen with respect to these transactions, though I do not think that, even if the view of them which is taken by Mr. Blaine is accurate, they would bear out the argument which he founds upon them.

I shall be glad if you will take the opportunity of informing Mr. Blaine of these corrections.

I am, etc.,

SALISBURY.

Sir Julian Pauncefoot to Mr. Blaine.

WASHINGTON, June 30, 1890.

SIR: I have received a dispatch from the Marquis of Salisbury with reference to the passage in your note to me of the 4th instant, in which you remark that in 1888 his lordship abruptly closed the negotiations because "the Canadian government objected," and that he "assigned no other reason whatever."

In view of the observations contained in Lord Salisbury's dispatch

of the 20th of June, of which a copy is inclosed in my last preceding note of this date, his lordship deems it unnecessary to discuss at any greater length the circumstances which led to an interruption of the negotiations of 1888.

With regard, however, to the passage in your note of the 4th instant above referred to, his lordship wishes me to call your attention to the following statement made to him by Mr. Phelps, the United States minister in London, on the 3d of April, 1888, and which was recorded in a dispatch of the same date to Her Majesty's minister at Washington.

"Under the peculiar political circumstances of America at this moment," said Mr. Phelps, "with a general election impending, it would be of little use, and indeed hardly practicable, to conduct any negotiation to its issue before the election had taken place."

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 2, 1890.

SIR: Your note of the 27th ultimo, covering Lord Salisbury's reply to the friendly suggestion of the President, was duly received. It was the design of the President, if Lord Salisbury had been favorably inclined to his proposition, to submit a form of settlement for the consideration of Her Majesty's Government which the President believed would end all dispute touching privileges in Behring Sea. But Lord Salisbury refused to accept the proposal unless the President should "*forthwith*" accept a formal arbitration, which His Lordship prescribes.

The President's request was made in the hope that it might lead to a friendly basis of agreement, and he can not think that Lord Salisbury's proposition is responsive to his suggestion. Besides, the answer comes so late that it would be impossible now to proceed this season with the negotiation the President had desired.

An agreement to arbitrate requires careful consideration. The United States is perhaps more fully committed to that form of international adjustment than any other power, but it can not consent that the form in which arbitration shall be undertaken shall be decided without full consultation and conference between the two Governments.

I beg further to say that you must have misapprehended what I said touching British claims for injuries and losses alleged to have been inflicted upon British vessels in Behring Sea by agents of the United States. My declaration was that arbitration would logically and necessarily include that point. It is not to be conceded, but decided with other issues of far greater weight.

I have, etc.,

JAMES G. BLAINE.

Mr. Blaine to Sir Julian Pauncefote.

BAE HARBOR, MAINE, July 19, 1890.

SIR: I regret that circumstances beyond my control have postponed my reply to your two notes of June 30th, which were received on the 1st instant, on the eve of my leaving Washington for this place. The note which came to hand on the forenoon of that day inclosed a dispatch from Lord Salisbury, in which his lordship, referring to my note of May 29th, expresses "a wish to point out some errors" which he thinks I "had gathered from the records in my office."

The purpose of Lord Salisbury is to show that I misapprehended the facts of the case when I represented him, in my note of May 29, as having given such "verbal assurances" to Mr. Phelps as warranted the latter in expecting a convention to be concluded between the two Governments for the protection of the seal fisheries in Behring Sea.

Speaking directly to this point his lordship says:

Mr. Blaine is under a misconception in imagining that I ever gave any verbal assurance or any promise of any kind with respect to the terms of the proposed convention.

In answer to this statement I beg you will say to Lord Salisbury that I simply quoted, in my note of May 29, the facts communicated by our minister, Mr. Phelps, and our chargé d'affaires, Mr. White, who are responsible for the official statements made to this Government at different stages of the seal fisheries negotiation.

On the 25th day of February, 1888, as already stated in my note of May 29th, Mr. Phelps sent the following intelligence to Secretary Bayard, viz:

Lord Salisbury assents to your proposition to establish by mutual arrangement between the Governments interested a close time for fur-seals between April 15th and November 1st in each year, and between 160 degrees of longitude west, and 170 degrees of longitude east in the Behring Sea. And he will cause an act to be introduced in Parliament to give effect to this arrangement, so soon as it can be prepared. In his opinion there is no doubt that the act will be passed. He will also join the United States Government in any preventive measures it may be thought best to adopt by orders issued to the naval vessels of the respective Governments in that region.

Mr. Phelps has long been known in this country as an able lawyer, accurate in the use of words and discriminating in the statement of facts. The Government of the United States necessarily reposes implicit confidence in the literal correctness of the dispatch above quoted.

Some time after the foregoing conference between Lord Salisbury and Mr. Phelps had taken place, his lordship invited the Russian ambassador, M. de Staal, and the American chargé, Mr. White (Mr. Phelps being absent from London), to a conference held at the foreign office on the 16th of April, touching the Behring Sea controversy. This conference was really called at the request of the Russian ambassador, who desired that Russian rights in the Behring Sea should be as fully recognized by England as American rights had been recognized in the verbal agreement of February 25 between Lord Salisbury and Mr. Phelps. The Russian ambassador received from Lord Salisbury the assurance (valuable also to the United States), that the protected area for seal life should be extended southward to the 47th degree of north latitude, and also the promise that he would have "a draught

convention prepared for submission to the Russian ambassador and the American chargé."

Lord Salisbury now contends that all the proceedings at the conference of April 16 are to be regarded as only "*provisional, in order to furnish a basis for negotiation, and without definitely pledging our Government.*" While the understanding of this Government differs from that maintained by Lord Salisbury, I am instructed by the President to say that the United States is willing to consider all the proceedings of April 16, 1888, as canceled, so far as American rights may be concerned. This Government will ask Great Britain to adhere only to the agreement made between Lord Salisbury and Mr. Phelps on the 25th of February, 1888. That was an agreement made directly between the two Governments and did not include the rights of Russia. Asking Lord Salisbury to adhere to the agreement of February 25, we leave the agreement of April 16 to be maintained, if maintained at all, by Russia, for whose cause and for whose advantage it was particularly designed.

While Lord Salisbury makes a general denial of having given "verbal assurances," he has not made a special denial touching the agreement between himself and Mr. Phelps, which Mr. Phelps has reported in special detail, and the correctness of which he has since specially affirmed on more than one occasion.

In your second note of June 30, received in the afternoon of July 1, you called my attention (at Lord Salisbury's request) to a statement which I made in my note of June 4 to this effect:

It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiation because, in his own phrase, "the Canadian Government objected."

To show that there were other causes for closing the negotiation Lord Salisbury desires that attention be called to a remark made to him by Mr. Phelps on the 3d day of April, 1888, as follows: "Under the peculiar circumstances of America at this moment, with a general election impending, it would be of little use and indeed hardly practicable to conduct any negotiation to its issue before the general election has taken place."

I am quite ready to admit that such a statement made by Mr. Phelps might now be adduced as one of the reasons for breaking off the negotiation, if in fact the negotiation had been then broken off, but Lord Salisbury immediately proceeded with the negotiation. The remark ascribed to Mr. Phelps was made, as Lord Salisbury states, on the 3d of April, 1888. On the 5th of April Mr. Phelps left London on a visit to the United States. On the 6th of April Lord Salisbury addressed a private note to Mr. White to meet the Russian ambassador at the foreign office, as he had appointed a meeting for April 16 to discuss the questions at issue concerning the seal fisheries in Behring Sea.

On the 23d of April there was some correspondence in regard to an order in council and an act of Parliament. On the 27th of April Under Secretary Barrington, of the foreign office, in an official note, informed Mr. White that "the next step was to bring in an act of Parliament."

On the 28th of April Mr. White was informed that an act of Parliament would be necessary in addition to the order in council, but that "neither act nor order could be draughted until Canada is heard from."

Mr. Phelps returned to London on the 22d of June, and immediately took up the subject, earnestly pressing Lord Salisbury to come to a conclusion. On the 28th of July he telegraphed his Government expressing the "fear that owing to Canadian opposition we shall get no convention."

On the 12th of September Mr. Phelps wrote to Secretary Bayard that Lord Salisbury had stated that "the Canadian Government objected to any such restrictions [as those asked for the protection of the seal fisheries], and that until Canada's consent could be obtained, Her Majesty's Government was not willing to enter into the convention."

I am justified, therefore, in assuming that Lord Salisbury can not recur to the remark of Mr. Phelps as one of the reasons for breaking off the negotiation, because the negotiation was in actual progress for more than four months after the remark was made, and Mr. Phelps himself took large part in it.

Upon this recital of facts I am unable to recall or in any way to qualify the statement which I made in my note of June 4th, to the effect that Lord Salisbury "abruptly closed the negotiation because the Canadian Government objected, and that he assigned no other reason whatever."

Lord Salisbury expresses the belief that even if the view I have taken of these transactions be accurate they would not bear out the argument which I found upon them. The argument to which Lord Salisbury refers is, I presume, the remonstrance which I made by direction of the President against the change of policy by Her Majesty's Government without notice and against the wish of the United States. The interposition of the wishes of a British province against the conclusion of a convention between two nations, which, according to Mr. Phelps, "*had been virtually agreed upon except as to details*," was in the President's belief a grave injustice to the Government of the United States.

I have, etc.,

JAMES G. BLAINE.

The Marquis of Salisbury to Sir Julian Pauncefote.

[Transmitted to the Department by Sir Julian Pauncefote.]

No. 166.]

FOREIGN OFFICE, August 2, 1890.

SIR: I have received and laid before the Queen your dispatch No. 101 of the 1st ultimo, forwarding a copy of a note from Mr. Blaine, in which he maintains that the United States have derived from Russia rights of jurisdiction over the waters of Behring's Sea to a distance of 100 miles from the coasts transferred to them under the treaty of the 30th March, 1867.

In replying to the arguments to the contrary effect contained in my dispatch No. 106A of the 22d May, Mr. Blaine draws attention to certain expressions which I had omitted for the sake of brevity in quoting from Mr. Adams's dispatch of the 22d July, 1823. He contends that these words give a different meaning to the dispatch, and that the latter does not refute but actually supports the present claim of the United States. It becomes necessary, therefore, that I should refer in greater detail to the correspondence, an examination of which will show that the passage in question can not have the significance which Mr. Blaine seeks to give to it, that the words omitted by me do not in reality affect the point at issue, and that the view which he takes of the attitude both of Great Britain and of the United States towards the claim put forward by Russia in 1822 can not be reconciled with the tenor of the dispatches.

It appears from the published papers that in 1799 the Emperor Paul I granted by charter to the Russian-American Company the exclusive right of hunting, trade, industries, and discoveries of new land on the northwest coast of America, from Behring's Strait to the fifty-fifth degree of north latitude, with permission to the company to extend their discoveries to the south and to form establishments there, provided they did not encroach upon the territory occupied by other powers.

The southern limit thus provisionally assigned to the company corresponds, within 20 or 30 miles, with that which was eventually agreed upon as the boundary between the British and Russian possessions. It comprises not only the whole American coast of Behring's Sea, but a long reach of coast line to the south of the Alaskan peninsula as far as the level of the southern portion of Prince of Wales' Island.

The charter, which was issued at a time of great European excitement, attracted apparently little attention at the moment and gave rise to no remonstrance. It made no claim to exclusive jurisdiction over the sea, nor do any measures appear to have been taken under it to restrict the commerce, navigation, or fishery of the subjects of foreign nations. But in September, 1821, the Russian Government issued a fresh ukase, of which the provisions material to the present discussion were as follows:

SECTION 1. The pursuits of commerce, whaling, and fishing, and of all other industry, on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Behring's Strait to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Strait to the south cape of the Island of Urup, viz, to 45° 50' northern latitude, are exclusively granted to Russian subjects.

SEC. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

By this ukase the exclusive dominion claimed by Russia on the American continent was pushed some 250 miles to the south as far as

Vancouver Island, and notice was for the first time given of a claim to maritime jurisdiction which was regarded both in England and the United States as extravagant, or, to use Lord Stowell's description of it, "very unmeasured and insupportable."

Upon receiving communication of the ukase the British and United States' Governments at once objected both to the extension of the territorial claim and to the assertion of maritime jurisdiction. For the present I will refer only to the protest of the United States Government. This was made in a note from Mr. John Quincy Adams, then Secretary of State, to the Russian representative, dated the 25th February, 1822, which contains the following statement:

I am directed by the President of the United States to inform you that he has seen with surprise in this edict the assertion of a territorial claim on the part of Russia extending to the fifty-first degree of north latitude on this continent, and a regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that claim is made to apply. The relations of the United States with His Imperial Majesty have always been of the most friendly character, and it is the earnest desire of this Government to preserve them in that state. It was expected, before any act which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by treaty between the parties. To exclude the vessels of our citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.

This ordinance affects so deeply the rights of the United States and of their citizens that I am instructed to inquire whether you are authorized to give explanations of the grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and regulations contained in it.

The Russian representative replied at length, defending the territorial claim on grounds of discovery, first occupation, and undisturbed possession, and explaining the motive "which determined the Imperial Government to prohibit foreign vessels from approaching the northwest coasts of America belonging to Russia within the distance of at least 100 Italian miles. This measure," he said, "however severe it may at first view appear, is after all but a measure of prevention." He went on to say that it was adopted in order to put a stop to an illicit trade in arms and ammunition with the natives, against which the Russian Government had frequently remonstrated; and further on he observed:

I ought, in the last place, to request you to consider, sir, that the Russian possessions in the Pacific Ocean extend, on the northwest coast of America, from Behring's Strait to the fifty-first degree of north latitude, and on the opposite side of Asia and the islands adjacent, from the same strait to the forty-fifth degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to *shut seas* ("mers fermées"), and the Russian Government might, consequently, judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities.

To this Mr. Adams replied (30th March, 1822), pointing out that the only ground given for the extension of the Russian territorial claim was the establishment of a settlement, not upon the continent, but upon a small island actually within the limits prescribed to the Russian American Company in 1799, and he went on to say:

This pretension is to be considered not only with reference to the question of territorial right, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. From the period of the existence of the United States as an independent nation their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than 90° of longitude, or 4,000 miles.

The Russian representative replied to this note, endeavoring to prove that the territorial rights of Russia on the northwest coast of America were not confined to the limits of the concession granted to the Russian American Company in 1799, and arguing that the great extent of the Pacific Ocean at the fifty-first degree of latitude did not invalidate the right which Russia might have to consider that part of the ocean as closed. But he added that further discussion of this point was unnecessary, as the Imperial Government had not thought fit to take advantage of that right.

The correspondence then dropped for a time, to be resumed in the following spring. But it is perfectly clear from the above that the privileges granted to the Russian American Company in 1799, whatever effect that may have had as regards other Russian subjects, did not operate to exclude American vessels from any part of the coast, and that the attempt to exclude them in 1821 was at once resisted. Further, that the Russian Government had no idea of any distinction between Behring's Sea and the Pacific Ocean, which latter they considered as reaching southward from Behring's Straits. Nor throughout the whole of the subsequent correspondence is there any reference whatever on either side to any distinctive name for Behring's Sea, or any intimation that it could be considered otherwise than as forming an integral part of the Pacific Ocean.

I now come to the dispatch from Mr. Adams to Mr. Middleton of the 22d of July, 1823, to which reference has before been made, and which it will be necessary to quote somewhat at length. After authorizing Mr. Middleton to enter upon a negotiation with the Russian ministers concerning the differences which had arisen from the ukase of the 4th (16th) September, 1821, Mr. Adams continues :

From the tenor of the ukase, the pretensions of the Imperial Government extend to an exclusive territorial jurisdiction from the forty-fifth degree of north latitude, on the Asiatic coast, to the latitude of 51° north on the western coast of the American continent ; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast.

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, which, so far as Russian rights are concerned, are confined to certain islands north of the fifty-fifth degree of latitude, and have no existence on the continent of America.

Mr. Blaine has argued at great length to show that when Mr. Adams used these clear and forcible expressions he did not mean what he seemed to say ; that when he stated that the United States "could admit no part of these claims," he meant that they admitted all that part of them which related to the coast north of the Aleutian Islands ; that when he spoke of the Southern Ocean, he meant to except Behring's Sea ; and that when he contended that the ordinary exceptions and exclusions of the territorial jurisdictions had no existence, so far as Russian rights were concerned, on the continent of America, he used the latter term not in a geographical but in a "territorial" sense, and tacitly excepted, by a very singular *petitio principii*, the Russian possessions. In order to carry out this theory, it is necessary for him also to assume that the negotiators in the course of the discussions made indiscriminate use of the term "northwest coast of America," with a variety

of signification which he admits to be "confusing, and, at certain points, apparently contradictory and irreconcilable."

The reputation of the American statesmen and diplomatists of that day for caution and precision affords of itself strong argument against such a view, and even if this had been otherwise, so forced a construction would require very strong evidence to confirm it. But a glance at the rest of the dispatch and at the other papers will show that the more simple interpretation of the words is the correct one. For Mr. Adams goes on to say:

The correspondence between M. Poletica and this Department contained no discussion of the principles or of the facts upon which he attempted the justification of the imperial ukase. This was purposely avoided on our part, under the expectation that the Imperial Government could not fail, upon a review of the measure, to revoke it altogether. It did, however, excite much public animadversion in this country, as the ukase itself had already done in England. I inclose herewith the North American Review for October, 1822, No. 37, which contains an article (page 370) written by a person fully master of the subject; and for the view of it taken in England I refer you to the fifty-second number of the Quarterly Review, the article upon Lieutenant Kotzebue's voyages. From the article in the North American Review it will be seen that the rights of discovery, of occupancy, and of uncontested possession alleged by M. Poletica are all without foundation in fact. * * *

On reference to the last-mentioned article, it will be found that the writer states that:

A trade to the northwestern coast of America and the free navigation of the waters that wash its shores have been enjoyed as a common right by subjects of the United States and of several European powers without interruption for nearly forty years. We are by no means prepared to believe or admit that all this has been on sufferance merely, and that the *rights* of commerce and navigation in that region have been vested in Russia alone.

Further on he puts the question in the following manner (the italics are his own):

It is not, we apprehend, whether Russia has any settlements that give her territorial claims on the continent of America. This we do not deny. But it is *whether the location of those settlements and the discoveries of their navigators are such as they are represented to be; whether they entitle her to the exclusive possession of the whole territory north of 51° and to sovereignty over the Pacific Ocean beyond that parallel.*

These passages sufficiently illustrate Mr. Adams's meaning, if any evidence be required that he used plain language in its ordinary sense. Clearly he meant to deny that the Russian settlements or discoveries gave Russia any claim as of right to exclude the navigation or fishery of other nations from any part of the seas on the coast of America, and that her rights in this respect were limited to the territorial waters of certain islands of which she was in permanent and complete occupation.

Having distinctly laid down this proposition as regards the rights of the case, Mr. Adams went on to state what the United States were ready to agree to as a matter of conventional arrangement. He said:

With regard to the territorial claim separate from the right of traffic with the natives and from any system of colonial exclusions, we are willing to agree to the boundary line within which the Emperor Paul had granted exclusive privileges to the Russian-American Company, that is to say, latitude 55°.

If the Russian Government apprehend serious inconvenience from the illicit traffic of foreigners with their settlements on the northwest coast, it may be effectually guarded against by stipulations similar to those a draft of which is herewith subjoined, and to which you are authorized, on the part of the United States, to agree.

The draft convention was as follows:

DRAFT OF TREATY BETWEEN THE UNITED STATES AND RUSSIA.

ARTICLE I. In order to strengthen the bonds of friendship, and to preserve in future a perfect harmony and good understanding between the contracting parties, it is

agreed that their respective citizens and subjects shall not be disturbed or molested, either in navigating or in carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas, in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, subject, nevertheless, to the restrictions and provisions specified in the two following articles.

ART. II. To the end that the navigation and fishery of the citizens and subjects of the contracting parties, respectively, in the Pacific Ocean or in the South Seas may not be made a pretext for illicit trade with their respective settlements, it is agreed that the citizens of the United States shall not land on any part of the coast actually occupied by Russian settlements, unless by permission of the governor or commander thereof, and that Russian subjects shall, in like manner, be interdicted from landing without permission at any settlement of the United States on the said northwest coast.

ART. III. It is agreed that no settlement shall be made hereafter on the northwest coast of America by citizens of the United States, or under their authority, north, nor by Russian subjects, or under the authority of Russia, south, of the 55th degree of north latitude.

In an explanatory dispatch to Mr. Rush, the American minister in London, same date, Mr. Adams says:

The right of carrying on trade with the natives throughout the northwest coast they (the United States) can not renounce. With the Russian settlements at Kodiak, or at New Archangel, they may fairly claim the advantage of a free trade, having so long enjoyed it unmolested, and because it has been and would continue to be as advantageous at least to those settlements as to them. But they will not contest the right of Russia to prohibit the traffic, as strictly confined to the Russian settlement itself, and not extending to the original natives of the coast. * * *

It is difficult to conceive how the term "northwest coast of America," used here and elsewhere, can be interpreted otherwise than as applying to the northwest coast of America generally, or how it can be seriously contended that it was meant to denote only the more westerly portion, excluding the more northwesterly part, because by becoming a Russian possession this latter had ceased to belong to the American continent.

Mr. Blaine states that when Mr. Middleton declared that Russia had no right of exclusion on the coasts of America between the fiftieth and sixtieth degrees of north latitude, nor in the seas which washed those coasts, he intended to make a distinction between Behring's Sea and the Pacific Ocean. But upon reference to a map it will be seen that the sixtieth degree of north latitude strikes straight across Behring's Sea, leaving by far the larger and more important part of it to the south, so that I confess it appears to me that by no conceivable construction of his words can Mr. Middleton be supposed to have excepted that sea from those which he declared to be free.

With regard to the construction which Mr. Blaine puts upon the treaty between the United States and Russia of the 17th April, 1824, I will only say that it is, as far as I am aware, an entirely novel one, that there is no trace of its having been known to the various publicists who have given an account of the controversy in treaties on international law, and that it is contrary, as I shall show, to that which the British negotiators placed on the treaty when they adopted the first and second articles for insertion in the British treaty of the 28th February, 1825. I must further dissent from his interpretation of Article VII of the latter treaty. That article gives to the vessels of the two powers "liberty to frequent all the inland seas, gulfs, havens, and creeks on the coast mentioned in Article III for the purpose of fishing and of trading with the natives." The expression "coast mentioned in Article III" can only refer to the first words of the article: "The line of demarcation between the possessions of the high contracting parties upon the coast of the continent and the island of America to the northwest shall be drawn,"

etc. That is to say, it included all the possessions of the two powers on the northwest coast of America. For there would have been no sense whatever in stipulating that Russian vessels should have freedom of access to the small portion of coast which, by a later part of the article, is to belong to Russia. And as bearing on this point it will be noticed that Article VI, which has a more restricted bearing, speaks only of "the subjects of His Britannic Majesty" and of "the *line of coast described in Article III.*"

The stipulations of the treaty were formally renewed by articles inserted in the general treaties of commerce between Great Britain and Russia of 1843 and 1859. But Mr. Blaine states that—

The rights of the Russian-American Company which, under both ukases, included the sovereignty over the sea to the extent of 100 miles from the shores, were reserved by special clause in a separate and special article signed after the principal articles of the treaty had been concluded and signed.

Upon this I have to observe, in the first place, that the ukase of 1799 did not contain any mention whatever of sovereignty over the sea; secondly, that the context of the separate article is such as altogether to preclude the interpretation that it was meant to recognize the objectionable claim contained in the ukase of 1821. I will quote the article at length:

SEPARATE ARTICLE II.

It is understood in like manner that the exceptions, immunities, and privileges hereinafter mentioned shall not be considered as at variance with the principle of reciprocity which forms the basis of the treaty of this date, that is to say:

1. The exemption from navigation dues during the first three years which is enjoyed by vessels built in Russia and belonging to Russian subjects.
2. The exemptions of the like nature granted in the Russian ports of the Black Sea, the sea of Azof, and the Danube to such Turkish vessels arriving from ports of the Ottoman Empire situated on the Black Sea as do not exceed 80 lasts burden.
3. The permission granted to the inhabitants of the coast of the Government of Archangel to import duty free, or on payment of moderate duties, into ports of the said government dried or salted fish, as likewise certain kinds of furs, and to export therefrom, in the same manner, corn, rope and cordage, pitch, and ravenstuck.
4. The privilege of the Russian-American Company.
5. The privilege of the steam navigation companies of Lubeck and Havre; lastly,
6. The immunities granted in Russia to certain English companies, called "yacht clubs."

To suppose that under the simple words "the privilege of the Russian-American Company," placed in connection with the privilege of French and German steam navigation companies and the immunities of yacht clubs, it was intended to acknowledge a claim of jurisdiction against which Her Majesty's Government had formally protested as contrary to international law, and which it had avowedly been one of the main objects of the treaty of 1825 to extinguish, is a suggestion too improbable to require any lengthened discussion.

But Her Majesty's Government did not of course agree to the article without knowing what was the exact nature of the privileges thus excepted from reciprocity. They had received from the Russian ambassador, in December 1842, an explanatory memorandum on this subject, of which the following is the portion relating to the Russian-American Company:

IV.

La Compagnie Russe-Américaine a le privilège d'expédier francs de droits: de Cronstadt autour du monde et d'Ochotsk dans les Colonies Russes, les produits Russes ainsi que les marchandises étrangères dont les droits ont déjà été prélevés; de même d'importer au retour de ces Colonies des cargaisons de pelletteries et d'autres

produits de ces Colonies, sans payer aucun droit si d'après les lois générales il n'est pas établi d'impôt particulier intérieur sur les marchandises de pelleterie.

Observation.—D'après le Tarif en vigneur, l'importation des fourrures dans les ports de St.-Petersbourg et d'Archangel, de production Russe et sur des vaisseaux Russes, est admise sans droits.

It is surely incredible that if the privilege of the Russian-American Company did comprise a right of excluding vessels from approaching within 100 miles of the shore it should not even have been alluded to in this explanation.

Nor is it possible to agree in Mr. Blaine's view that the exclusion of foreign vessels for a distance of 100 miles from the coast remained in force pending the negotiations and in so far as it was not modified by the conventions. A claim of jurisdiction over the open sea, which is not in accordance with the recognized principles of international law or usage, may of course be asserted by force, but can not be said to have any legal validity as against the vessels of other countries, except in so far as it is positively admitted by conventional agreements with those countries.

I do not suppose that it is necessary that I should argue at length upon so elementary a point as that a claim to prohibit the vessels of other nations from approaching within a distance of 100 miles from the coast is contrary to modern international usage. Mr. Adams and Mr. Canning clearly thought in 1823 that the matter was beyond doubt or discussion.

The rule which was recognized at that time, and which has been generally admitted both by publicists and governments, limits the jurisdiction of a country in the open sea to a distance of 3 miles from its coasts, this having been considered to be the range of a cannon shot when the principle was adopted.

Wheaton, who may be regarded as a contemporary authority, equally respected in Europe and America, says:

The maritime territory of every State extends to the ports, harbors, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands belonging to the same State. The general usage of nations superadds to this extent of territorial jurisdiction a distance of a marine league, or as far as a cannon shot will reach from the shore along all the coasts of the State.

And again:

The rule of law on this subject is *terra dominium finitur ubi finitur armorum vis*; and since the introduction of fire-arms that distance has usually been recognized to be about 3 miles from the shore.

Chancellor Kent, who is inclined to advocate a more extended limit, still admits that—

According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach, and no farther; and this is generally calculated to be a marine league.

Calvo, one of the most recent text writers, makes a corresponding statement:

Les limites juridictionnelles d'un Etat embrassent non seulement son territoire, mais encore les eaux qui le traversent ou l'entourent, les ports, les baies, les golfes, les embouchures des fleuves et les mers enclavées dans son territoire. L'usage général des nations permet également aux Etats d'exercer leur juridiction sur la zone maritime jusqu'à 3 milles marins ou à la portée de canon de leurs côtes.

But I need scarcely appeal to any other authority than that of the United States Government itself.

In a note to the Spanish minister, dated the 16th December, 1862,

on the subject of the Spanish claim to a 6-mile limit at sea, Mr. Seward stated :*

A third principle bearing on the subject is also well established, namely, that this exclusive sovereignty of a nation—thus abridging the universal liberty of the seas—extends no farther than the power of the nation to maintain it by force, stationed on the coast, extends. This principle is tersely expressed in the maxim "*terra domini finitur ubi finitur armorum vis.*"

But it must always be a matter of uncertainty and dispute at what point the force of arms, exerted on the coast, can actually reach. The publicists rather advanced towards than reached a solution when they laid down the rule that the limit of the force is the range of a cannon ball. The range of a cannon ball is shorter or longer according to the circumstances of projection, and it must be always liable to change with the improvement of the science of ordnance. Such uncertainty upon a point of jurisdiction or sovereignty would be productive of many and endless controversies and conflicts. A more practical limit of national jurisdiction upon the high seas was indispensably necessary, and this was found, as the undersigned thinks, in fixing the limit at 3 miles from the coast. This limit was early proposed by the publicists of all maritime nations. While it is not insisted that all nations have accepted or acquiesced and bound themselves to abide by this rule when applied to themselves, yet three points involved in the subject are insisted upon by the United States:

1. That this limit has been generally recognized by nations;
2. That no other general rule has been accepted; and
3. That if any State has succeeded in fixing for itself a larger limit, this has been done by the exercise of maritime power, and constitutes an exception to the general understanding which fixes the range of a cannon shot (when it is made the test of jurisdiction) at 3 miles. So generally is this rule accepted that writers commonly use the expressions of a range of cannon shot and 3 miles as equivalents of each other. In other cases, they use the latter expression as a substitute for the former.

And in a later communication on the same subject of the 10th August, 1863, he observes :

Nevertheless, it can not be admitted, nor indeed is Mr. Tassara understood to claim, that the mere assertion of a sovereign, by an act of legislation however solemn, can have the effect to establish and fix its external maritime jurisdiction. His right to a jurisdiction of 3 miles is derived, not from his own decree, but from the law of nations, and exists, even though he may never have proclaimed or asserted it by any decree or declaration whatsoever. He can not, by a mere decree, extend the limit and fix it at 6 miles, because, if he could, he could in the same manner and upon motives of interest, ambition, or even upon caprice, fix it at 10, or 20, or 50 miles without the consent or acquiescence of other powers which have a common right with himself in the freedom of all the oceans. Such a pretension could never be successfully or rightfully maintained.

The same principles were laid down in a note addressed to Sir E. Thornton by Mr. Fish, then Secretary of State, on the 22d January, 1875. Mr. Fish there stated :

We have always understood and asserted that pursuant to public law no nation can rightfully claim jurisdiction at sea beyond a marine league from the coast.

He then went on to explain the only two exceptions that were apparently known to him so far as the United States were concerned : Certain revenue laws which admitted the boarding of vessels at a distance of 4 leagues from the coast, which, he said, had never been so applied in practice as to give rise to complaint on the part of a foreign government; and a treaty between the United States and Mexico of 1848, in which the boundary line between the two States was described as beginning in the Gulf of Mexico 3 leagues from land. As regards this stipulation, he observed that it had been explained at the time that it could only affect the rights of Mexico and the United States, and was never intended to trench upon the rights of Great Britain or of any other power under the law of nations.

It would seem, therefore, that Mr. Fish was entirely unaware of the exceptional jurisdiction in Behring's Sea, which is now said to have

* Wharton's International Law Digest, vol. 1, § 82.

been conceded by the United States to Russia from 1823 to 1867, transferred to the United States, so far as the American coast was concerned, only eight years before he wrote, and which would presumably be still acknowledged by them as belonging to Russia on the Asiatic shore. I must suppose that when Mr. Blaine states that "both the United States and Great Britain recognized, respected, obeyed" the ukase of 1821, in so far as it affected Behring's Sea, he has some evidence to go upon in regard to the conduct of his country which is unknown to the world at large, and which he has not as yet produced. But I must be allowed altogether to deny that the attitude of Great Britain was such as he represents, or that she ever admitted by act or by sufferance the extraordinary claim of maritime jurisdiction which that ukase contained.

The inclosed copies of correspondence, extracted from the archives of this office, make it very difficult to believe that Mr. Blaine has not been altogether led into error. It results from them that not only did Her Majesty's Government formally protest against the ukase on its first issue as contrary to the acknowledged law of nations, but that the Russian Government gave a verbal assurance that the claim of jurisdiction would not be exercised. In the subsequent negotiations great importance was attached to obtaining a more formal disavowal of the claim in the manner least hurtful to Russian susceptibilities but so as effectually to preclude its revival. And this security the British Government undoubtedly considered that both they and the United States had obtained by the conventions of 1824 and 1825.

Upon this point the instructions given by Mr. George Canning to Mr. Stratford Canning, when the latter was named plenipotentiary to negotiate the treaty of 1825, have a material bearing.

Writing under date of the 8th December, 1824, after giving a summary of the negotiations up to that date, he goes on to say—

It is comparatively indifferent to us whether we hasten or postpone all questions respecting the limits of territorial possession on the continent of America, but the pretensions of the Russian ukase of 1821, to exclusive dominion over the Pacific, could not continue longer unrepealed without compelling us to take some measure of public and effectual remonstrance against it.

You will, therefore, take care in the first instance to repress any attempt to give this change to the character of the negotiation, and will declare, without reserve, that the point to which alone the solicitude of the British Government and the jealousy of the British nation attach any great importance is the doing away (in a manner as little disagreeable to Russia as possible) of the effect of the ukase of 1821.

That this ukase is not acted upon, and that instructions have long ago been sent by the Russian Government to their cruisers in the Pacific to suspend the execution of its provisions is true, but a private disavowal of a published claim is no security against the revival of that claim; the suspension of the execution of a principle may be perfectly compatible with the continued maintenance of the principle itself.

The right of the subjects of His Majesty to navigate freely in the Pacific can not be held as a matter of indulgence from any power. Having once been publicly questioned it must be publicly acknowledged.

We do not desire that any distinct reference should be made to the ukase of 1821, but we do feel it necessary that the statement of our right should be clear and positive, and that it should stand forth in the convention in the place which properly belongs to it as a plain and substantive stipulation, and not be brought in as an incidental consequence of other arrangements to which we attach comparatively little importance.

This stipulation stands in the grant of the convention concluded between Russia and the United States of America, and we see no reason why, upon similar claims, we should not obtain exactly the like satisfaction.

For reasons of the same nature we can not consent that the liberty of navigation through Behring's Straits should be stated in the treaty as a boon from Russia.

The tendency of such a statement would be to give countenance to those claims of

exclusive jurisdiction against which we, on our own behalf and on that of the whole civilized world, protest.

It will of course strike the Russian plenipotentiaries that, by the adoption of the American article respecting navigation, etc., the provision for an exclusive fishery of 2 leagues from the coasts of our respective possessions falls to the ground.

But the omission is, in truth, immaterial.

The law of nations assigns the exclusive sovereignty of 1 league to each power off its own coasts without any specified stipulation, and though Sir Charles Bagot was authorized to sign the convention with the specific stipulation of 2 leagues in ignorance of what had been decided in the American convention at the time, yet after that convention has been some months before the world, and after the opportunity of reconsideration has been forced upon us by the act of Russia herself, we can not now consent, in negotiating *de novo*, to a stipulation which, while it is absolutely unimportant to any practical good, would appear to establish a contract between the United States and us to our disadvantage.

Mr. Stratford Canning, in his dispatch of the 1st March, 1825, inclosing the convention as signed, says :

With respect to Behring's Straits I am happy to have it in my power to assure you, on the joint authority of the Russian plenipotentiaries, that the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of these straits or of the seas to the north of them.

These extracts show conclusively (1) that England refused to admit any part of the Russian claim asserted by the ukase of 1821 to a maritime jurisdiction and exclusive right of fishing throughout the whole extent of that claim, from Behring's Straits to the fifty-first parallel; (2) that the convention of 1825 was regarded on both sides as a renunciation on the part of Russia of that claim in its entirety, and (3) that though Behring's Straits was known and specifically provided for, Behring's Sea was not known by that name, but was regarded as part of the Pacific Ocean.

The answer, therefore, to the questions with which Mr. Blaine concludes his dispatch is that Her Majesty's Government have always claimed the freedom of navigation and fishing in the waters of Behring's Sea outside the usual territorial limit of 1 marine league from the coast; that it is impossible to admit that a public right to fish, catch seals, or pursue any other lawful occupation on the high seas can be held to be abandoned by a nation from the mere fact that for a certain number of years it has not suited the subjects of that nation to exercise it.

It must be remembered that British Columbia has come into existence as a colony at a comparatively recent date, and that the first considerable influx of population, some thirty years ago, was due to the discovery of gold, and did not tend to an immediate development of the shipping interest.

I have to request that you will communicate a copy of this dispatch, and of its inclosures, to Mr. Blaine. You will state that Her Majesty's Government have no desire whatever to refuse to the United States any jurisdiction in Behring's Sea which was conceded by Great Britain to Russia, and which properly accrues to the present possessors of Alaska in virtue of treaties or the law of nations; and that if the United States Government, after examination of the evidence and arguments which I have produced, still differ from them as to the legality of the recent captures in that sea, they are ready to agree that the question, with the issues that depend upon it, should be referred to impartial arbitration. You will in that case be authorized to consider, in concert with Mr. Blaine, the method of procedure to be followed.

I have, etc.,

F R 90—30

SALISBURY.

[Inclosure 1.]

*Lord Londonderry to Count Lieven.*FOREIGN OFFICE, *January 18, 1822.*

The undersigned has the honor hereby to acknowledge the note addressed to him by Baron de Nicolai, of the 12th November last, covering a copy of an ukase issued by His Imperial Majesty the Emperor of all the Russias, and bearing date the 4th September, 1821, for various purposes therein set forth, especially connected with the territorial rights of his Crown on the northwestern coast of America bordering upon the Pacific and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto.

This document, containing regulations of great extent and importance, both in its territorial and maritime bearings, has been considered with the utmost attention and with those favorable sentiments which His Majesty's Government always bears towards the acts of a State with which His Majesty has the satisfaction to feel himself connected by the most intimate ties of friendship and alliance, and having been referred for the report of those high legal authorities whose duty it is to advise His Majesty on such matters, the undersigned is directed, till such friendly explanations can take place between the two governments as may obviate misunderstanding upon so delicate and important a point, to make such provisional protest against the enactments of the said ukase as may fully serve to save the rights of His Majesty's Crown, and may protect the persons and properties of His Majesty's subjects from molestation in the exercise of their lawful callings in that quarter of the globe.

The undersigned is commanded to acquaint Count Lieven that, it being the King's constant desire to respect and cause to be respected by his subjects, in the fullest manner, the Emperor of Russia's just rights, His Majesty will be ready to enter into amicable explanations upon the interests affected by this instrument in such manner as may be most acceptable to His Imperial Majesty.

In the mean time, upon the subject of this ukase generally, and especially upon the two main principles of claim laid down therein, viz, an exclusive sovereignty alleged to belong to Russia over the territories therein described, as also the exclusive right of navigating and trading within the maritime limits therein set forth, His Britannic Majesty must be understood as hereby reserving all his rights, not being prepared to admit that the intercourse which is allowed on the face of this instrument to have hitherto subsisted on those coasts and in those seas can be deemed to be illicit; or that the ships of friendly powers, even supposing an unqualified sovereignty was proved to appertain to the Imperial Crown, in these vast and very imperfectly occupied territories could, by the acknowledged law of nations, be excluded from navigating within the distance of 100 Italian miles, as therein laid down, from the coast, the exclusive dominion of which is assumed (but as His Majesty's Government conceive in error) to belong to His Imperial Majesty, the Emperor of all the Russias.

LONDONDERRY.

[Inclosure 2.]

Memorandum by the Duke of Wellington.—(September 11, 1822.)

In the course of a conversation which I had yesterday with Count Lieven, he informed that he had been directed to give verbal explanations of the ukase respecting the northwestern coast of America. These explanations went, he said, to this, that the Emperor did not propose to carry into execution the ukase in its extended sense; that His Imperial Majesty's ships had been directed to cruise at the shortest possible distance from the shore in order to supply the natives with arms and ammunition, and in order to warn all vessels that that was His Imperial Majesty's dominion, and that His Imperial Majesty had besides given directions to his minister in the United States to agree upon a treaty of limits with the United States.

[Inclosure 3.]

*Mr. G. Canning to the Duke of Wellington.*FOREIGN OFFICE, *September 27, 1822.*

MY LORD DUKE: Your grace is already in possession of all that has passed, both here and at St. Petersburg, on the subject of the issue, in September of last year, by the Emperor of Russia, of an ukase, indirectly asserting an exclusive right of sovereignty from Behring's Straits to the fifty-first degree of north latitude on the west

coast of America, and to the forty-fifth degree north on the opposite coast of Asia, and (as a qualified exercise of that right) prohibiting all foreign ships, under pain of confiscation, from approaching within 100 Italian miles of those coasts. This ukase having been communicated by Baron Nicolai, the Russian chargé d'affaires at this court, to His Majesty's Government, was forthwith submitted to the legal authorities whose duty it is to advise His Majesty on such matters, and a note was in consequence addressed by the late Marquis of Londonderry to Count Lieven, the Russian ambassador, and also communicated to His Majesty's ambassador at St. Petersburg, protesting against the enactments of the said ukase, and requesting such amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown and the interests of his subjects. As such explanations will probably be offered to your grace during the conferences about to take place at Vienna, I hasten to signify to you the King's commands as to the language which you will hold on the part of His Majesty upon this subject.

The opinions given in November and December last by Lord Stowell and by His Majesty's advocate-general (copies of which are already in your possession) will furnish you with the best legal arguments in opposition to the pretensions put forward in the Russian ukase; and as in both these opinions much stress is very properly laid upon the state of actual occupation of the territories claimed by Russia, and the different periods of time at which they were so occupied, I have obtained from the governor of the principal company of His Majesty's subjects trading in that part of the world the information of which your grace will find in the inclosed papers.

That information will enable you sufficiently to prove to the Russian minister not only that the point of prior discovery may be fairly disputed with Russia, but that the much more certain title of actual occupation by the agents and the trading servants of the Hudson's Bay Company extends at this moment to many degrees of higher latitude on the northwest coast of America than is claimed as the territory of Russia by the ukase in question.

Enlightened statesmen and jurists have long held as insignificant all titles of territory that are not founded on actual occupation, and that title is, in the opinion of the most esteemed writers on public law, to be established only by practical use.

With respect to the other points in the ukase which have the effect of extending the territorial rights of Russia over the adjacent seas to the unprecedented distance of 100 miles from the line of coast, and of closing a hitherto unobstructed passage, at the present moment the object of important discoveries for the promotion of general commerce and navigation, these pretensions are considered by the best legal authorities as positive innovations on the rights of navigation; as such they can receive no explanation from further discussion, nor can by possibility be justified. Common usage, which has obtained the force of law, has indeed assigned to coasts and shores an accessorial boundary to a short limited distance for the purposes of protection and general convenience, in no manner interfering with the rights of others and not obstructing the freedom of general commerce and navigation. But this important qualification the extent of the present claim entirely excludes, and when such a prohibition is, as in the present case, applied to a long line of coasts and also to intermediate islands in remote seas, where navigation is beset with innumerable and unforeseen difficulties and where the principal employment of the fisheries must be pursued under circumstances which are incompatible with the prescribed courses, all particular considerations concur, in an especial manner, with the general principle in repelling such a pretension as an encroachment on the freedom of navigation and the unalienable rights of all nations.

I have, indeed, the satisfaction to believe, from a conference which I have had with Count Lieven on this matter, that upon these two points—the attempt to shut up the passage altogether, and the claim of exclusive dominion to so enormous a distance from the coast—the Russian Government are prepared entirely to waive their pretensions. The only effort that has been made to justify the latter claim was by reference to an article in the treaty of Utrecht, which assigns 30 leagues from the coast as the distance of prohibition. But to this argument it is sufficient to answer that the assumption of such a space was, in the instance quoted, by stipulation in a treaty, and one to which, therefore, the party to be affected by it had (whether wisely or not) given its deliberate consent. No inference could be drawn from that transaction in favor of a claim by authority against all the world.

I have little doubt, therefore, but that the public notification of the claim to consider the portions of the ocean included between the adjoining coasts of America and the Russian Empire as a *mare clausum*, and to extend the exclusive territorial jurisdiction of Russia to 100 Italian miles from the coast, will be publicly recalled; and I have the King's commands to instruct your grace further to require of the Russian minister (on the ground of the facts and reasonings furnished in this dispatch and its inclosures) that such a portion of territory alone shall be defined as belonging to Russia as shall not interfere with the rights and actual possessions of His Majesty's subjects in North America.

I am, etc.,

D^y GEO. CANNING.

[Inclosure 4.]

Memorandum on Russian Ukase of 1821.

In the month of September 1821 His Imperial Majesty the Emperor of Russia issued an Ukase asserting the existence in the Crown of Russia of an exclusive right of sovereignty in the countries extending from Behring's Straits to the fifty-first degree of north latitude on the west coast of America, and to the forty-fifth degree of north latitude on the opposite coast of Asia; and, as a qualified exercise of that right of sovereignty, prohibiting all foreign vessels from approaching within one hundred Italian miles of those coasts.

After this Ukase had been submitted by the King's Government to those legal authorities whose duty it is to advise His Majesty on such matters, a note was addressed by the late Marquis of Londonderry to Count Lieven, the Russian Ambassador, protesting against the enactments of this Ukase, and requesting such amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown and the interests of his subjects.

We object, first, to the claim of sovereignty as set forth in this Ukase; and, secondly, to the mode in which it is exercised.

The best writers on the laws of nations do not attribute the exclusive sovereignty, particularly of continents, to those who have first discovered them; and although we might on good grounds dispute with Russia the priority of discovery of these continents, we contend that the much more easily proved, more conclusive, and more certain title of occupation and use ought to decide the claim of sovereignty.

Now, we can prove that the English North-West Company and the Hudson's Bay Company have for many years established forts and other trading-stations in a country called New Caledonia, situated to the west of a range of mountains called Rocky Mountains, and extending along the shores of the Pacific Ocean from latitude 49° to latitude 60°.

This Company likewise possess factories and other establishments on Mackenzie's River, which falls into the Frazer River as far north as latitude 66° 30', from whence they carry on trade with the Indians inhabiting the countries to the west of that river, and who, from the nature of the country, can communicate with Mackenzie's River with more facility than they can with the posts in New Caledonia. Thus, in opposition to the claims founded on discovery, the priority of which, however, we conceive we might fairly dispute, we have the indisputable claim of occupancy and use for a series of years, which all the best writers on the laws of nations admit is the best-founded claim for territory of this description. Objecting, as we do, to this claim of exclusive sovereignty on the part of Russia, I might save myself the trouble of discussing the particular mode of its exercise as set forth in this Ukase. But we object to the sovereignty proposed to be exercised under this Ukase not less than we do to the claim of it. We cannot admit the right of any power possessing the sovereignty of a country to exclude the vessels of others from the seas on its coasts to the distance of 100 Italian miles. We must object likewise to the arrangements contained in the said Ukase conveying to private merchant ships the right to search in time of peace, etc., which are quite contrary to the laws and usages of nations and to the practice of modern times.

VERONA, October 17, 1822.

To Count NESSELRODE.

WELLINGTON.

[Inclosure 5.—Mémoire Confidentiel.]

Count Nesselrode to the Duke of Wellington.

VERONE, le 11 (23) Novembre, 1822.

Le Cabinet de Russie a pris en mûre considération le Mémoire Confidentiel que M. le Duc de Wellington lui a remis le 17 Octobre dernier, relativement aux mesures adoptées par Sa Majesté l'Empereur, sous la date du (4) 16 Septembre, 1821, pour déterminer l'étendue des possessions Russes sur la côte nord-ouest de l'Amérique, et pour interdire aux vaisseaux étrangers l'approche de ces possessions jusqu'à la distance de 100 milles d'Italie.

Les ouvertures faites à ce sujet au Gouvernement de Sa Majesté Britannique par le Comte de Lieven au moment où cette Ambassadeur allait quitter Londres doivent déjà avoir prouvé que l'opinion que le Cabinet de St. James avait conçue des mesures dont il s'agit n'était point fondée sur une appréciation entièrement exacte des vues de Sa Majesté Impériale.

La Russie est loin de méconnaître que l'usage et l'occupation constituent la plus solide des titres d'après lesquels un État puisse réclamer des droits de souveraineté sur

une portion quelconque du continent. La Russie est plus loin encore d'avoir voulu outrepasser arbitrairement les limites que ce titre assigne à ses domaines sur la côte nord-ouest de l'Amérique, ou ériger en principe général de droit maritime les règles qu'une nécessité purement locale l'avait obligée de poser pour la navigation étrangère dans le voisinage de la partie de cette côte qui lui appartient.

C'était au contraire parce qu'elle regardait ces droits de souveraineté comme légitimes, et parce que des considérations impérieuses tenant à l'existence même du commerce qu'elle fait dans les parages de la côte nord-ouest de l'Amérique, la forçaient à établir un système de précautions devenues indispensables, qu'elle a fait paraître l'oukase du (4) 16 Septembre, 1821.

La Russie serait toujours prête à faire part des motifs qui en justifient les dispositions; mais pour le moment elle se bornera aux observations suivantes:—

M. le Duc de Wellington affirme, dans son Mémoire Confidentiel du 17 Octobre, que des établissements Anglais, appartenant à deux Compagnies, celle de la Baye de Hudson et celle du Nord-Ouest, se sont formés dans une contrée appelée la Nouvelle Calédonie, qui s'étend le long de la côte de l'Océan Pacifique, depuis le 49° jusqu'au 60° degré de latitude septentrionale.

La Russie ne parlera point des établissements qui peuvent exister-entre le 49° et le 51° parallèle; mais quant aux autres, elle n'hésite pas de convenir qu'elle en ignore jusqu'à présent l'existence, pour autant au moins qu'ils toucheraient l'Océan Pacifique.

Les cartes Anglaises même les plus récentes et les plus détaillées n'indiquent absolument aucune des stations de commerce mentionnées dans le Mémoire du 17 Octobre, sur la côte même de l'Amérique, entre le 51° et le 60° degré de latitude septentrionale.

D'ailleurs, depuis les expéditions de Behring et de Tchirikoff, c'est-à-dire depuis près d'un siècle, des établissements Russes ont pris, à partir du 60° degré, une extension progressive, qui dès l'année 1799 les avait fait parvenir jusqu'au 55° parallèle, comme le porte la première charte de la Compagnie Russe-Américaine, charte qui a reçu dans le temps une publicité officielle, et qui n'a motivé aucune protestation de la part de l'Angleterre.

Cette même charte accordait à la Compagnie Russe le droit de porter ses établissements vers le midi au delà du 55° degré de latitude septentrionale, pourvu que de tels accroissements de territoire ne pussent donner motif de réclamation à aucune Puissance étrangère.

L'Angleterre n'a pas non plus protesté contre cette disposition; elle n'a pas même réclamé contre les nouveaux établissements que la Compagnie Russe-Américaine a pu former au sud du 55° degré, en vertu de ce privilège.

La Russie était donc pleinement autorisée à profiter d'un consentement qui, pour être tacite, n'en était pas moins solennel, et à déterminer pour bornes de ses domaines le degré de latitude jusqu'auquel la Compagnie Russie avait étendu ses opérations depuis 1799.

Quoiqu'il en soit, et quelque force que ces circonstances prêtent aux titres de la Russie, Sa Majesté Impériale ne déviara point dans cette conjuncture du système habituel de sa politique.

Le premier de ses vœux sera toujours de prévenir toute discussion, et de consolider de plus en plus les rapports d'amitié et de parfaite intelligence qu'elle se félicite d'entretenir avec la Grande Bretagne.

En conséquence l'Empereur a chargé son Cabinet de déclarer à M. le Duc de Wellington (sans que cette déclaration puisse préjudicier en rien à ses droits, si elle n'était point acceptée) qu'il est prêt à fixer, au moyen d'une négociation amicale, et sur la base des convenances mutuelles, les degrés de latitude et de longitude que les deux Puissances regarderont comme dernières limites de leurs possessions et de leurs établissements sur la côte nordouest de l'Amérique.

Sa Majesté Impériale se plaît à croire que cette négociation pourra se terminer sans difficulté à la satisfaction réciproque des deux États; et le Cabinet de Russie peut assurer dès à présent M. le Duc de Wellington que les mesures de précaution et de surveillance qui seront prises alors sur la partie Russe de la côte d'Amérique se trouveront entièrement conformes aux droits dérivant de la souveraineté, ainsi qu'aux usages établis entre nations, et qu'aucune plainte légitime ne pourra s'élever contre elles.

[Inclosure 6.]

The Duke of Wellington to Mr. G. Canning.

VERONA, November 28, 1822.

SIR: I inclose the copy of a confidential memorandum which I gave to Count Nesselrode on the 17th October, regarding the Russian Ukase, and the copy of his answer.

I have had one or two discussions with Count Lieven upon this paper, to which I

object, as not enabling His Majesty's Government to found upon it any negotiation to settle the questions arising out of the Ukase, which have not got the better of these difficulties; and I inclose you the copy of a letter which I have written to Count Lieven, which explains my objections to the Russian "Mémoire Confidentiel." This question, then, stands exactly where it did. I have not been able to do anything upon it.

I have, &c.

WELLINGTON.

[Inclosure 7.]

The Duke of Wellington to Count Lieven.

VERONA, November 28, 1822.

M. LE COMTE, Having considered the paper which your Excellency gave me last night, on the part of his Excellency Count Nesselrode, on the subject of our discussions on the Russian Ukase, I must inform you that I can not consent, on the part of my Government, to found on that paper the negotiation for the settlement of the question which has arisen between the two Governments on this subject.

We object to the ukase on two grounds: (1) That His Imperial Majesty assumes thereby an exclusive sovereignty in North America, of which we are not prepared to acknowledge the existence or the extent; upon this point, however, the memoir of Count Nesselrode does afford the means of negotiation; and my government will be ready to discuss it, either in London or St. Petersburg, whenever the state of the discussions on the other question arising out of the ukase will allow of the discussion.

The second ground on which we object to the ukase is that His Imperial Majesty thereby excludes from a certain considerable extent of the open sea vessels of other nations. We contend that the assumption of this power is contrary to the law of nations; and we can not found a negotiation upon a paper in which it is again broadly asserted. We contend that no power whatever can exclude another from the use of the open sea; a power can exclude itself from the navigation of a certain coast, sea, etc., by its own act or engagement, but it can not by right be excluded by another. This we consider as the law of nations; and we can not negotiate upon a paper in which a right is asserted inconsistent with this principle.

I think, therefore, that the best mode of proceeding would be that you should state your readiness to negotiate upon the whole subject, without restating the objectionable principle of the ukase which we can not admit.

I have, etc.

WELLINGTON.

[Inclosure 8.]

The Duke of Wellington to Mr. G. Canning.

VERONA, November 29, 1822.

SIR: Since I wrote to you yesterday I have had another conversation with the Russian minister regarding the ukase. It is now settled that both the memorandums which I inclosed to you should be considered as *non avenues*, and the Russian ambassador in London is to address you a note in answer to that of the late Lord Londonderry, assuring you of the desire of the Emperor to negotiate with you upon the whole question of the Emperor's claims in North America, reserving them all if the result of the negotiation should not be satisfactory to both parties.

This note will then put this matter in a train of negotiation, which is what was wished.

I have, etc.,

WELLINGTON.

[Inclosure 9.]

Count Lieven to Mr. G. Canning.

A la suite des déclarations verbales que le Soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté l'Empereur de toutes les Russies, a faites au Ministère de Sa Majesté Britannique, le Cabinet de St. James a dû se convaincre que si des objections s'étaient élevées contre le Règlement publié au nom de Sa Majesté

l'Empereur de toutes les Russies sous la date du 4 (16) Septembre 1821, les mesures ultérieures adoptées par Sa Majesté Impériale ne laissent aucun doute sur la pureté de ses vues et sur le désir qu'elle aura toujours de concilier ses droits et ses intérêts avec les intérêts et les droits des Puissances auxquelles l'unissent les liens d'une amitié véritable et d'une bienveillance réciproque.

Avant de quitter Vérone, le Soussigné a reçu l'ordre de donner au Gouvernement de Sa Majesté Britannique une nouvelle preuve des dispositions connues de l'Empereur, en proposant à son Excellence M. Canning, Principal Secrétaire d'Etat de Sa Majesté Britannique pour les Affaires Etrangères, sans que cette proposition puisse porter atteinte aux droits de Sa Majesté Impériale, si elle n'est pas acceptée, que de part et d'autre la question de droit strict soit provisoirement écartée, et que tous les différends auxquels a donné lieu le Règlement dont il s'agit, s'applanissent par un arrangement amical fondé sur le seul principe des convenances mutuelles et qui serait négocié à St.-Petersbourg.

L'Empereur se flatte que Sir Charles Bagot ne tardera point à recevoir les pouvoirs et les instructions nécessaires à cet effet, et que la proposition du Soussigné achèvera de démontrer au Gouvernement de Sa Majesté Britannique combien Sa Majesté Impériale souhaite qu'aucune divergence d'opinion ne puisse subsister entre la Russie et la Grande-Bretagne, et que le plus parfait accord continue de présider à leurs relations.

Le Soussigné, etc.,

LONDRES, le 19 (31) Janvier 1823.

LIEVEN.

[Inclosure 10.]

Mr. G. Canning to Sir C. Bagot.

No. 1.]

FOREIGN OFFICE, February 5, 1823.

SIR: With respect to my dispatch No. 5 of the 31st December last, transmitting to your excellency the copy of an instruction addressed to the Duke of Wellington, as well as a dispatch from his grace dated Verona, the 29th November last, both upon the subject of the Russian ukase of September, 1821, I have now to inclose to your excellency the copy of a note which has been addressed to me by Count Lieven, expressing His Imperial Majesty's wish to enter into some amicable arrangement for bringing this subject to a satisfactory termination, and requesting that your excellency may be furnished with the necessary powers to enter into negotiation for that purpose with His Imperial Majesty's ministers at St. Petersburg.

I avail myself of the opportunity of a Russian courier (of whose departure Count Lieven has only just apprised me) to send this note to your excellency, and to desire that your excellency will proceed to open the discussion with the Russian minister upon the basis of the instruction to the Duke of Wellington.

I will not fail to transmit to your excellency full powers for the conclusion of an agreement upon this subject, by a messenger whom I will dispatch to you as soon as I shall have collected any further information which it may be expedient to furnish to your excellency, or to found any further instruction upon that may be necessary for your guidance in this important negotiation.

I am, etc.,

GEO. CANNING.

[Inclosure 11.]

Mr. Lyall to Mr. G. Canning.—(Received November 24.)

SHIPOWNERS' SOCIETY, NEW BROAD STREET, November 19, 1823.

SIR: In the month of June last you were pleased to honor me with an interview on the subject of the Russian ukase prohibiting foreign vessels from touching at or approaching the Russian establishments along the northwest coast of America therein mentioned, when you had the goodness to inform me that a representation had been made to that government, and that you had reason to believe that the ukase would not be acted upon; and very shortly after this communication I was informed, on what I considered undoubted authority, that the Russian Government had consented to withdraw that unfounded pretension.

The committee of this society being about to make their annual report to the ship-owners at large, it would be satisfactory to them to be able to state therein that official

advices have been received from St. Petersburg that the ukase had been annulled; and should that be the case, I have to express the hope of the committee to be favored with a communication from you to that effect.

I have, etc.,

GEORGE LYALL,
Chairman of Shipowners' Committee.

[Inclosure 12.]

Lord F. Conyngham to Mr. Lyall.

FOREIGN OFFICE, November 26, 1823.

SIR: I am directed by Mr. Secretary Canning to acknowledge the receipt of your letter of the 19th instant, expressing a hope that the ukase of September, 1821, had been annulled.

Mr. Canning can not authorize me to state to you in distinct terms that the ukase has been annulled, because the negotiation to which it gave rise is still pending, embracing as it does many points of great intricacy as well as importance.

But I am directed by Mr. Canning to acquaint you that orders have been sent out by the court of St. Petersburg to their naval commanders calculated to prevent any collision between Russian ships and those of other nations, and in effect suspending the ukase of September, 1821.

I am, etc.,

F. CONYNGHAM.

[Inclosure 13.—Extract.]

Mr. G. Canning to Sir C. Bagot.

FOREIGN OFFICE, January 20, 1824.

A long period has elapsed since I gave your excellency reason to expect additional instructions for your conduct in the negotiation respecting the Russian ukase of 1821.

That expectation was held out in the belief that I should have to instruct you to combine your proceedings with those of the American minister, and the framing such instructions was, of necessity, delayed until Mr. Rush should be in possession of the intentions of his Government upon the subject.

It remains, therefore, only for me to direct your Excellency to resume your negotiation with the court of St. Petersburg at the point at which it was suspended in consequence of the expected accession of the United States, and to endeavor to bring it as speedily as possible to an amicable and honorable conclusion.

The questions at issue between Great Britain and Russia are short and simple. The Russian ukase contains two objectionable pretensions: first, an extravagant assumption of maritime supremacy; secondly, an unwarranted claim of territorial dominion.

As to the first, the disavowal of Russia is, in substance, all that we could desire. Nothing remains for negotiation on that head but to clothe that disavowal in precise and satisfactory terms. We would much rather that those terms should be suggested by Russia herself than have the air of pretending to dictate them. You will, therefore, request Count Nesselrode to furnish you with his notion of such a declaration on this point as may be satisfactory to your Government. That declaration may be made the preamble of the convention of limits.

[Inclosure 14.]

Mr. G. Canning to Sir C. Bagot.

No. 29.—Extract.]

FOREIGN OFFICE, July 24, 1824.

The "projet" of a convention which is inclosed in my No. 26 having been communicated by me to Count Lieven, with a request that his excellency would note any points in it upon which he conceived any difficulty likely to arise, or any expla-

nation to be necessary, I have received from his excellency the memorandum a copy of which is herewith inclosed.

Your excellency will observe that there are but two points which have struck Count Lieven as susceptible of any question; the first, the assumption of the base of the mountains, instead of the summit, as the line of boundary; the second the extension of the right of navigation of the Pacific to the sea beyond Behring's Straits.

As to the second point, it is perhaps, as Count Lieven remarks, new. But it is to be remarked, in return, that the circumstances under which this additional security is required will be new also.

By the territorial demarcation agreed to in this "projet" Russia will become possessed, in acknowledged sovereignty, of both sides of Behring's Straits.

The power which could think of making the Pacific a *mare clausum* may not unnaturally be supposed capable of a disposition to apply the same character to a strait comprehended between two shores, of which it becomes the undisputed owner. But the shutting up of Behring's Straits, or the power to shut them up hereafter, would be a thing not to be tolerated by England.

Nor could we submit to be excluded, either positively or constructively, from a sea in which the skill and science of our seamen has been and is still employed in enterprises interesting not to this country alone but the whole civilized world.

The protection given by the convention to the American coasts of each power may (if it is thought necessary) be extended in terms to the coasts of the Russian Asiatic territory; but in some way or other, if not in the form now presented, the free navigation of Behring's Straits, and of the seas beyond them, must be secured to us.

[Inclosure 15.]

Mr. G. Canning to Mr. S. Canning.

No. I.—Extract.]

FOREIGN OFFICE, December 8, 1824.

His Majesty having been graciously pleased to name you his plenipotentiary for concluding and signing with the Russian Government a convention for terminating the discussions which have arisen out of the promulgation of the Russian ukase of 1821, and for settling the respective territorial claims of Great Britain and Russia on the northwest coast of America, I have received His Majesty's commands to direct you to repair to St. Petersburg for that purpose, and to furnish you with the necessary instructions for terminating the long-protracted negotiation.

The correspondence which has already passed upon this subject has been submitted to your perusal. And I inclose you a copy—

1. Of the "projet" which Sir Charles Bagot was authorized to conclude and sign some months ago, and which we had every reason to expect would have been entirely satisfactory to the Russian Government.

2. Of a "contre-projet" drawn up by the Russian plenipotentiaries, and presented to Sir Charles Bagot at their last meeting before Sir Charles Bagot's departure from St. Petersburg.

3. Of a dispatch from Count Nesselrode, accompanying the transmission of the "contre-projet" to Count Lieven.

In that dispatch, and in certain marginal annotations upon the copy of the "projet," are assigned the reasons of the alterations proposed by the Russian plenipotentiaries.

In considering the expediency of admitting or rejecting the proposed alterations, it will be convenient to follow the articles of the treaty in the order in which they stand in the English "projet."

You will observe in the first place that it is proposed by the Russian plenipotentiaries entirely to change that order, and to transfer to the latter part of the instrument the article which has hitherto stood first in the "projet."

To that transposition we can not agree, for the very reason which Count Nesselrode alleges in favor of it, viz, that the "economie," or arrangement of the treaty, ought to have reference to the history of the negotiation.

The whole negotiation grows out of the ukase of 1821.

So entirely and absolutely true is this proposition, that the settlement of the limits of the respective possessions of Great Britain and Russia on the northwest coast of America was proposed by us only as a mode of facilitating the adjustment of the difference arising from the ukase, by enabling the court of Russia, under cover of the more comprehensive arrangement, to withdraw, with less appearance of concession, the offensive pretensions of that edict.

It is comparatively indifferent to us whether we hasten or postpone all questions respecting the limits of territorial possession on the continent of America; but the pretensions of the Russian ukase of 1821 to exclusive dominion over the Pacific could not continue longer unrepealed without compelling us to take some measure of public and effectual remonstrance against it.

You will therefore take care, in the first instance, to repress any attempt to give this change to the character of the negotiation; and will declare without reserve that the point to which alone the solicitude of the British Government and the jealousy of the British nation may attach any great importance is the doing away (in a manner as little disagreeable to Russia as possible) of the effect of the ukase of 1821.

That this ukase is not acted upon, and that instructions have been long ago sent by the Russian Government to their cruisers in the Pacific to suspend the execution of its provisions, is true; but a private disavowal of a published claim is no security against the revival of that claim; the suspension of the execution of a principle may be perfectly compatible with the continued maintenance of the principle itself, and when we have seen in the course of this negotiation that the Russian claim to the possession of the coast of America down to latitude 59° rests, in fact, on no other ground than the presumed acquiescence of the nations of Europe in the provisions of an ukase published by the Emperor Paul in the year 1800, against which it is affirmed that no public remonstrance was made, it becomes us to be exceedingly careful that we do not, by a similar neglect on the present occasion, allow a similar presumption to be raised as to an acquiescence in the ukase of 1821.

The right of the subjects of His Majesty to navigate freely in the Pacific can not be held as matter of indulgence from any power. Having once been publicly questioned, it must be publicly acknowledged.

We do not desire that any distinct reference should be made to the ukase of 1821; but we do feel it necessary that the statement of our right should be clear and positive, and that it should stand forth in the convention in the place which properly belongs to it as a plain and substantive stipulation, and not be brought in as an incidental consequence of other arrangements to which we attach comparatively little importance.

This stipulation stands in the front of the convention concluded between Russia and the United States of America; and we see no reason why, upon similar claims, we should not obtain exactly the like satisfaction.

For reasons of the same nature we can not consent that the liberty of navigation through Behring's Straits should be stated in the treaty as a boon from Russia.

The tendency of such a statement would be to give countenance to those claims of exclusive jurisdiction against which we, on our own behalf and on that of the whole civilized world, protest.

No specification of this sort is found in the convention with the United States of America; and yet it can not be doubted that the Americans consider themselves as secured in the right of navigating Behring's Straits and the sea beyond them.

It can not be expected that England should receive as a boon that which the United States hold as a right so unquestionable as not to be worth recording.

Perhaps the simplest course, after all, will be to substitute, for all that part of the "projet" and "contre-projet" which relates to maritime rights, and to navigation, the first two articles of the convention already concluded by the court of St. Petersburg with the United States of America, in the order in which they stand in that convention.

Russia can not mean to give to the United States of America what she withholds from us, nor to withhold from us anything that she has consented to give to the United States.

The uniformity of stipulations *in pari materia* gives clearness and force to both arrangements, and will establish that footing of equality between the several contracting parties which it is most desirable should exist between three powers whose interests come so nearly in contact with each other in a part of the globe in which no other power is concerned.

This, therefore, is what I am to instruct you to propose at once to the Russian minister as cutting short an otherwise inconvenient discussion.

This expedient will dispose of Article I of the "Projet," and of Articles V and VI of the "Contre-Projet."

The next articles relate to the territorial demarcation.

With regard to the port of Sitka or New Archangel, the offer came originally from Russia, but we are not disposed to object to the restriction which she now applies to it.

We are content that the port shall be open to us for ten years, provided only that if any other nation obtains a more extended term, the like term shall be extended to us also.

We are content also to assign the period of ten years for the reciprocal liberty of

access and commerce with each other's territories, which stipulation may be best stated precisely in the terms of Article IV of the American convention.

These, I think, are the only points in which alterations are required by Russia, and we have no other to propose.

A "projet," such as it will stand according to the observations of this dispatch, is inclosed, which you will understand as furnished to you as a guide for the drawing up of the convention; but not as prescribing the precise form of words, nor fettering your discretion as to any alterations, not varying from the substance of these instructions.

It will, of course, strike the Russian plenipotentiaries that by the adoption of the American article respecting navigation, etc., the provision for an exclusive fishery of two leagues from the coasts of our respective possessions falls to the ground.

But the omission is, in truth, immaterial. The law of nations assigns the exclusive sovereignty of one league to each power off its own coasts, without any specific stipulation, and though Sir Charles Bagot was authorized to sign the convention with the specific stipulation of two leagues, in ignorance of what had been decided in the American convention at the time, yet, after that convention has been some months before the world, and after the opportunity of reconsideration has been forced upon us by the act of Russia herself, we can not now consent, in negotiating *de novo*, to a stipulation which, while it is absolutely unimportant to any practical good, would appear to establish a contract between the United States and us to our disadvantage.

Count Nesselrode himself has frankly admitted that it was natural that we should expect, and reasonable that we should receive, at the hands of Russia, equal measure in all respects with the United States of America.

It remains only, in recapitulation, to remind you of the origin and principles of this whole negotiation.

It is not, on our part, essentially a negotiation about limits. It is a demand of the repeal of an offensive and unjustifiable arrogation of exclusive jurisdiction over an ocean of unmeasured extent; but a demand qualified and mitigated in its manner, in order that its justice may be acknowledged and satisfied without soreness or humiliation on the part of Russia.

We negotiate about territory to cover the remonstrance upon principle.

But any attempt to take undue advantage of this voluntary facility we must oppose.

If the present "projet" is agreeable to Russia, we are ready to conclude and sign the treaty. If the territorial arrangements are not satisfactory, we are ready to postpone them, and to conclude and sign the essential part—that which relates to navigation alone, adding an article stipulating to negotiate about territorial limits hereafter.

But we are not prepared to defer any longer the settlement of that essential part of the question; and if Russia will neither sign the whole convention nor that essential part of it, she must not take it amiss that we resort to some mode of recording, in the face of the world, our protest against the pretensions of the ukase of 1821, and of effectually securing our own interests against the possibility of its future operations.

[Inclosure 16.]

Mr. S. Canning to Mr. G. Canning.—(Received March 21.)

No. 15.

ST. PETERSBURG, February 17 (March 1), 1825.

SIR: By the messenger Latchford I have the honor to send you the accompanying convention between His Majesty and the Emperor of Russia respecting the Pacific Ocean and northwest coast of America, which, according to your instructions, I concluded and signed last night with the Russian plenipotentiaries.

The alterations which, at their instance, I have admitted into the "projet," such as I presented it to them at first, will be found, I conceive, to be in strict conformity with the spirit and substance of His Majesty's commands. The order of the two main subjects of our negotiation, as stated in the preamble of the convention, is preserved in the articles of that instrument. The line of demarcation along the strip of land on the northwest coast of America, assigned to Russia, is laid down in the convention agreeably to your directions, notwithstanding some difficulties raised on this point, as well as on that which regards the order of the articles, by the Russian plenipotentiaries.

The instance in which you will perceive that I have most availed myself of the latitude afforded by your instructions to bring the negotiation to a satisfactory and prompt conclusion is the division of the third article of the new "projet," as it stood

when I gave it in, into the third, fourth, and fifth articles of the convention signed by the plenipotentiaries.

This change was suggested by the Russian plenipotentiaries, and at first it was suggested in a shape which appeared to me objectionable; but the articles, as they are now drawn up, I humbly conceive to be such as will not meet with your disapprobation. The second paragraph of the fourth article had already appeared parenthetically in the third article of the "project," and the whole of the fourth article is limited in its signification and connected with the article immediately preceding it by the first paragraph.

With respect to Behring Strait, I am happy to have it in my power to assure you, on the joint authority of the Russian plenipotentiaries, that the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of those straits, or of the seas to the north of them.

It can not be necessary, under these circumstances, to trouble you with a more particular account of the several conferences which I have held with the Russian plenipotentiaries, and it is but justice to state that I have found them disposed, throughout this latter stage of the negotiation, to treat the matters under discussion with fairness and liberality.

As two originals of the convention prepared for His Majesty's Government are signed by the plenipotentiaries, I propose to leave one of them with Mr. Ward for the archives of the embassy.

I have, etc.,

STRATFORD CANNING.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, November 18, 1890. (Received November 20.)

SIR: I have the honor, in accordance with instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, to communicate to you the accompanying notice which has been published in the London Gazette of the 4th instant, proclaiming the protectorate of Her Majesty over the dominions of the Sultanate of Zanzibar specified therein.

A similar notification has been addressed by Her Majesty's Government to the other powers who were parties to the act of Berlin.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from the London Gazette of Tuesday, November 4, 1890.

FOREIGN OFFICE, November 4, 1890.

It is hereby notified, for public information, that in pursuance of an agreement with the Sultan of Zanzibar, the dominions of his highness are placed under the protectorate of Her Britannic Majesty.

The protectorate comprises the territory recognized as belonging to his highness in the articles of agreement between Great Britain and Germany, recorded in the note from his excellency Count Hatzfeldt of the 29th October, 1886, and in the note from the Earl of Iddesleigh of the 1st November following, with the exception of the territory lying to the south of the river Umba on the island of Mafia, and of the districts of Brava, Merka, Magadisho, and Warksheikh.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, December 17, 1890.

SIR: Your note of August 12, which I acknowledged on the 1st of September, inclosed a copy of a dispatch from the Marquis of Salisbury, dated August 2, in reply to my note of June 30.

The considerations advanced by His Lordship have received the careful attention of the President, and I am instructed to insist upon the correctness and validity of the position which has been earnestly advocated by the Government of the United States, in defense of American rights in the Behring Sea.

Legal and diplomatic questions, apparently complicated, are often found, after prolonged discussion, to depend on the settlement of a single point. Such, in the judgment of the President, is the position in which the United States and Great Britain find themselves in the pending controversy touching the true construction of the Russo-American and Anglo-Russian treaties of 1824 and 1825. Great Britain contends that the phrase "Pacific Ocean," as used in the treaties, was intended to include, and does include, the body of water which is now known as the Behring Sea. The United States contends that the Behring Sea was not mentioned, or even referred to, in either treaty, and was in no sense included in the phrase "Pacific Ocean." If Great Britain can maintain her position that the Behring Sea at the time of the treaties with Russia of 1824 and 1825 was included in the Pacific Ocean, the Government of the United States has no well-grounded complaint against her. If, on the other hand, this Government can prove beyond all doubt that the Behring Sea, at the date of the treaties, was understood by the three signatory Powers to be a separate body of water, and was not included in the phrase "Pacific Ocean," then the American case against Great Britain is complete and undeniable.

The dispute prominently involves the meaning of the phrase "northwest coast," or "northwest coast of America." Lord Salisbury assumes that the "northwest coast" has but one meaning, and that it includes the whole coast stretching northward to the Behring Straits. The contention of this Government is that by long prescription the "northwest coast" means the coast of the Pacific Ocean, south of the Alaskan Peninsula, or south of the sixtieth parallel of north latitude; or, to define it still more accurately, the coast, from the northern border of the Spanish possessions, ceded to the United States in 1819, to the point where the Spanish claims met the claims of Russia, viz, from 42° to 60° north latitude. The Russian authorities for a long time assumed that 59° 30' was the exact point of latitude, but subsequent adjustments fixed it at 60°. The phrase "northwest coast," or "northwest coast of America," has been well known and widely recognized in popular usage in England and America from the date of the first trading to that coast, about 1784.* So absolute has been this prescription that the distinguished historian Hubert Howe Bancroft has written an accurate history of the northwest coast, which, at different times, during a period of seventy-five years, was the scene of important contests between at least four great powers. To render the understanding explicit, Mr. Bancroft has illustrated the northwest coast by a carefully prepared map. The map will be found to include precisely the area which has been steadily maintained by this Government in the pending discussion. (For map, see opposite page.)

* The same designation obtained in Europe. As early as 1803, in a map published by the Geographic Institute at Weimar, the coast from Columbia River (49°) to Cape Elizabeth (60°) is designated as the "*Nörd West Küste*."

The phrase "northwest coast of America" has not infrequently been used simply as the synonym of the "northwest coast," but it has also been used in another sense as including the American coast of the Russian possessions as far northward as the straits of Behring. Confusion has sometimes arisen in the use of the phrase "northwest coast of America," but the true meaning can always be determined by reference to the context.

The treaty between the United States and Russia was concluded on the 17th of April, 1824, and that between Great Britain and Russia was concluded February 28, 1825. The full and accurate text of both treaties will be found in inclosure A. The treaty between the United States and Russia is first in the order of time, but I shall consider both treaties together. I quote the first articles of each treaty, for, to all intents and purposes, they are identical in meaning, though differing somewhat in phrase.

The first article in the American treaty is as follows:

ARTICLE I. It is agreed that, in any part of the great ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

The first article in the British treaty is as follows:

ARTICLE I. It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested, in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following articles.

Lord Salisbury contends that—

The Russian Government had no idea of any distinction between Behring Sea and the Pacific Ocean, which latter they considered as reaching southward from Behring Straits. Nor throughout the whole of the subsequent correspondence is there any reference whatever on either side to any distinctive name for Behring's Sea, or any intimation that it could be considered otherwise than as forming an integral part of the Pacific Ocean.

The Government of the United States cordially agrees with Lord Salisbury's statement that throughout the whole correspondence connected with the formation of the treaties there was no reference whatever by either side to any distinctive name for Behring Sea, and for the very simple reason which I have already indicated, that the negotiation had no reference whatever to the Behring Sea, but was entirely confined to a "strip of land" on the northwest coast and the waters of the Pacific Ocean adjacent thereto. For future reference I call special attention to the phrase "strip of land."

I venture to remind Lord Salisbury of the fact that Behring Sea was, at the time referred to, the recognized name in some quarters, and so appeared on many authentic maps several years before the treaties were negotiated. But, as I mentioned in my note of June 30, the same sea had been presented as a body of water separate from the Pacific Ocean for a long period prior to 1825. Many names had been applied to it, but the one most frequently used and most widely recognized was the Sea of Kamschatka. English statesmen of the period when the treaties were negotiated had complete knowledge of all the geographical points involved. They knew that on the map published in 1784 to illustrate the voyages of the most eminent English navigator of the eighteenth century the "Sea of Kamschatka" appeared in absolute contradistinction

tion to the "Great South Sea" or the Pacific Ocean. And the map, as shown by the words on its margin, was "prepared by Lieut. Henry Roberts under the immediate inspection of Captain Cook."

Twenty years before Captain Cook's map appeared, the London Magazine contained a map on which the Sea of Kamschatka was conspicuously engraved. At a still earlier date—even as far back as 1732—Gvosdef, surveyor of the Russian expedition of Shestakof in 1730 (who, even before Behring, sighted the land of the American continent), published the sea as bearing the name of Kamschatka. Muller, who was historian and geographer of the second expedition of Behring in 1741, designated it as the Sea of Kamschatka, in his map published in 1761.

I inclose a list of a large proportion of the most authentic maps published during the ninety years prior to 1825 in Great Britain, in the United States, the Netherlands, France, Spain, Germany, and Russia—in all 105 maps—on *every one of which* the body of water now known as Behring Sea was plainly distinguished by a name separate from the Pacific Ocean. On the great majority it is named the Sea of Kamschatka, a few use the name of Behring, while several other designations are used. The whole number, aggregating, as they did, the opinion of a large part of the civilized world, distinguished the sea, no matter under what name, as altogether separate from the Pacific Ocean. (See inclosure B.)

Is it possible, that with this great cloud of witnesses before the eyes of Mr. Adams and Mr. George Canning, attesting the existence of the Sea of Kamschatka, they would simply include it in the phrase "Pacific Ocean" and make no allusion whatever to it as a separate sea, when it was known by almost every educated man in Europe and America to have been so designated numberless times? Is it possible that Mr. Canning and Mr. Adams, both educated in the Common Law, could believe that they were acquiring for the United States and Great Britain the enormous rights inherent in the Sea of Kamschatka without the slightest reference to that sea or without any description of its metes and bounds, when neither of them would have paid for a village house lot unless the deed for it should recite every fact and feature necessary for the identification of the lot against any other piece of ground on the surface of the globe? When we contemplate the minute particularity, the tedious verbiage, the duplications and the reduplications employed to secure unmistakable plainness in framing treaties, it is impossible to conceive that a fact of this great magnitude could have been omitted from the instructions written by Mr. Adams and Mr. G. Canning, as secretaries for foreign affairs in their respective countries—impossible that such a fact could have escaped the notice of Mr. Middleton and Count Nesselrode, of Mr. Stratford Canning and Mr. Poletica, who were the negotiators of the two treaties. It is impossible, that in the Anglo-Russian treaty Count Nesselrode, Mr. Stratford Canning, and Mr. Poletica could have taken sixteen lines to recite the titles and honors they had received from their respective sovereigns, and not even suggest the insertion of one line, or even word, to secure so valuable a grant to England as the full freedom of the Behring Sea.

There is another argument of great weight against the assumption of Lord Salisbury that the phrase "Pacific Ocean," as used in the first article of both the American and British treaties, was intended to include the waters of the Behring Sea. It is true that by the treaties with

the United States and Great Britain, Russia practically withdrew the operation of the Ukase of 1821 from the waters of the northwest coast on the Pacific Ocean, but the proof is conclusive that it was left in full force over the waters of the Behring Sea. Lord Salisbury can not have ascertained the value of the Behring Sea to Russia, when he assumed that in the treaties of 1824 and 1825 the Imperial Government had, by mere inclusion in another phrase, with apparent carelessness, thrown open all the resources and all the wealth of those waters to the citizens of the United States and to the subjects of Great Britain.

Lord Salisbury has perhaps not thought it worth while to make any examination of the money value of Alaska and the waters of the Behring Sea at the time the treaties were negotiated and in the succeeding years. The first period of the Russian-American Company's operations had closed before the Ukase of 1821 was issued. Its affairs were kept secret for a long time, but are now accurately known. The money advanced for the capital stock of the Company at its opening in 1799 amounted to 1,238,746 rubles. The gross sales of furs and skins by the company at Kodiak and Canton from that date up to 1820 amounted to 20,024,698 rubles. The net profit was 7,685,000 rubles for the twenty-one years—over 620 per cent. for the whole period, or nearly 30 per cent. per annum.

Reviewing these facts, Bancroft, in his "History of Alaska," a standard work of exhaustive research, says:

We find this powerful *monopoly* firmly established in the favor of the Imperial Government, many nobles of high rank and several members of the Royal family being among the share-holders.

And yet Lord Salisbury evidently supposes that a large amount of wealth was carelessly thrown away by the Royal family, the nobles, the courtiers, the capitalists, and the speculators of St. Petersburg in a phrase which merged the Behring Sea in the Pacific Ocean. That it was not thrown away is shown by the transactions of the Company for the next twenty years!

The second period of the Russian-American Company began in 1821 and ended in 1841. Within that time the gross revenues of the company exceeded 61,000,000 rubles. Besides paying all expenses and all taxes, the company largely increased the original capital and divided 8,500,000 rubles among the share-holders. These dividends and the increase of the stock showed a profit on the original capital of 55 per cent. per annum for the whole twenty years—a great increase over the first period. It must not be forgotten that during sixteen of these twenty years of constantly increasing profits, the treaties, which, according to Lord Salisbury, gave to Great Britain and the United States equal rights with Russia in the Behring Sea, were in full force.

The proceedings which took place when the second period of the Russian-American Company was at an end are thus described in Bancroft's "History of Alaska:"

* * * "In the variety and extent of its operations," declare the members of the Imperial Council, "no other company can compare with it. In addition to a commercial and industrial monopoly, the Government has invested it with a portion of its own powers in governing the vast and distant territory over which it now holds control. A change in this system would now be of doubtful benefit. *To open our ports to all hunters promiscuously would be a death blow to the fur trade*, while the Government, having transferred to the company the control of the colonies, could not now resume it without great expense and trouble, and would have to create new financial resources for such a purpose."

The Imperial Council, it will be seen, did not hesitate to call the Russian-American Company a *monopoly*, which it could not have been if Lord Salisbury's construction of the treaty was correct. Nor did the Council feel any doubt that to open the ports of the Behring Sea "to all hunters promiscuously would be a death blow to the fur trade."

Bancroft says further :

* * * This opinion of the Imperial Council, together with a charter defining the privileges and duties of the company, was delivered to the Czar and received his signature on the 11th of October, 1844. The new charter did not differ in its main features from that of 1821, though the boundary was, of course, changed in accordance with the English and American treaties. None of the company's rights were curtailed, and the additional privileges were granted of trading with certain ports in China and of shipping tea direct from China to St. Petersburg.

The Russian-American company was thus chartered for a third period of twenty years, and at the end of the time it was found that the gross receipts amounted to 75,770,000 rubles, a minor part of it from the tea trade. The expenses of administration were very large. The shareholders received dividends to the amount of 10,210,000 rubles—about 900 per cent. for the whole period, or 45 per cent. per annum on the original capital. At the time the third period closed, in 1862, the Russian Government saw an opportunity to sell Alaska, and refused to continue the charter of the company. Agents of the United States had initiated negotiations for the transfer of Alaska as early as 1859. The company continued, practically, however, to exercise its monopoly until 1867, when Alaska was sold by Russia to the United States. The enormous profits of the Russian-American Company in the fur trade of the Behring Sea continued under the Russian flag for more than forty years after the treaties of 1824 and 1825 had been concluded. And yet Lord Salisbury contends that during this long period of exceptional profits from the fur trade Great Britain and the United States had as good a right as Russia to take part in these highly lucrative ventures.

American and English ships in goodly numbers during this whole period annually visited and traded on the Northwest coast on the Pacific Ocean. And yet, of all these vessels of the United States and Great Britain, not one ever sought to disturb the fur fisheries of the Behring Sea or along its coasts, either of the continent or of the islands. So far as known, it is believed that neither American nor English ships ever attempted to take one fur seal at the Pribyloff Islands or in the open waters of the Behring Sea during that period. The 100-mile limit was for the preservation of all these fur animals, and this limit was observed for that purpose by all the maritime nations that sent vessels to the Behring waters.

Can any one believe it to be possible that the maritime, adventurous, gain-loving people of the United States and of Great Britain could have had such an inviting field open to them for forty years and yet not one ship of either nation enter the Behring Sea to compete with the Russian-American Company for the inordinate profits which had flowed so steadily and for so long a period into their treasury from the fur trade? The fact that the ships of both nations refrained, during that long period, from taking a single fur seal inside the shores of that sea is a presumption of their lack of right and their recognized disability so strong that, independently of all other arguments, it requires the most authentic and convincing evidence to rebut it. That English ships did not enter the Behring Sea to take part in the catching of seals is not all that can be said. Her acquiescence in Russia's power over the seal

fisheries was so complete that during the forty years of Russia's supremacy in the Behring Sea (that followed the treaties of 1824-'25) it is not believed that Great Britain even made a protest, verbal or written, against what Bancroft describes as the "Russian monopoly."

A certain degree of confusion and disorganization in the form of the government that had existed in Alaska was the inevitable accompaniment of the transfer of sovereignty to the United States. The American title was not made complete until the money, specified as the price in the treaty, had been appropriated by Congress and paid to the Russian minister by the Executive Department of the Government of the United States. This was effected in the latter half of the year 1868. The acquired sovereignty of Alaska carried with it by treaty "all the rights, franchises, and privileges" which had belonged to Russia. A little more than a year after the acquisition, the United States transferred certain rights to the Alaska Commercial Company over the seal fisheries of Behring Sea for a period of twenty years. Russia had given the same rights (besides rights of still larger scope) to the Russian-American Company for three periods of twenty years each, without a protest from the British Government, without a single interference from British ships. For these reasons this Government again insists that Great Britain and the United States recognized, respected, and obeyed the authority of Russia in the Behring Sea; and did it for more than forty years after the treaties with Russia were negotiated. It still remains for England to explain why she persistently violates the same rights when transferred to the ownership of the United States.

The second article of the American treaty is as follows:

ARTICLE II. With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

The second article of the British treaty is as follows:

ARTICLE II. In order to prevent the right of navigation and fishing, exercised upon the Ocean by the subjects of the high contracting parties, from becoming the pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian establishment, without the permission of the governor or commandant; and, on the other hand, the Russian subjects shall not land, without permission, at any British establishment on the Northwest coast.

In the second articles of the treaties it is recognized that both the United States and Great Britain have establishments on the "northwest coast," and, as neither country ever claimed any territory north of the sixtieth parallel of latitude, we necessarily have the meaning of the northwest coast significantly defined in exact accordance with the American contention.

An argument, altogether historical in its character, is of great and, I think, conclusive force touching this question. It will be remembered that the treaty of October 20, 1818, between the United States and

Great Britain comprised a variety of topics, among others, in article 3, the following :

It is agreed, that any country that may be claimed by either party on the northwest coast of America, westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two powers; it being understood, that this agreement is not to be construed to the prejudice of any claim, which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other power or state to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves.

While this article placed upon a common basis for ten years the rights of Great Britain and America on the northwest coast, it made no adjustment of the claims of Russia on the north, or of Spain on the south, which are referred to in the article as "any other power or state." Russia had claimed down to latitude 55° under the Ukase of 1799. Spain had claimed indefinitely northward from the forty-second parallel of latitude. But all the Spanish claims had been transferred to the United States by the treaty of 1819, and Russia had been so quiet until the Ukase of 1821 that no conflict was feared. But after that Ukase a settlement, either permanent or temporary, was imperatively demanded.

The proposition made by Mr. Adams which I now quote shows, I think, beyond all doubt, that the dispute was wholly touching the northwest coast on the Pacific Ocean. I make the following quotation from Mr. Adams' instruction to Mr. Middleton, our Minister at St. Petersburg, on the 22d of July, 1823 :

By the treaty of the 22d of February, 1819, with Spain the United States acquired all the rights of Spain north of latitude 42°; and by the third article of the convention between the United States and Great Britain of the 20th of October, 1818, it was agreed that any country that might be claimed by either party on the Northwest coast of America, westward of the Stony Mountains, should, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from that date, to the vessels, citizens, and subjects of the two powers, without prejudice to the claims of either party or of any other state.

You are authorized to propose an article of the same import for a term of ten years from the signature of a joint convention between the United States, Great Britain, and Russia.

Instructions of the same purport were sent by the same mail to Mr. Rush, our Minister at London, in order that the proposition should be completely understood by each of the three Powers. The confident presumption was that this proposition would, as a temporary settlement, be acceptable to all parties. But before there was time for full consideration of the proposition, either by Russia or Great Britain, President Monroe, in December, 1823, proclaimed his famous doctrine of excluding future European colonies from this continent. Its effect on all European nations holding unsettled or disputed claims to territory, was to create a desire for prompt settlement, so that each Power could be assured of its own, without the trouble or cost of further defending it. Great Britain was already entangled with the United States on the southern side of her claims on the northwest coast. That agreement she must adhere to, but she was wholly unwilling to postpone a definite understanding with Russia as to the northern limit of her claims on the northwest coast. Hence a permanent treaty was desired, and in both treaties the "ten-year" feature was recognized—in the seventh article of the British treaty and in the fourth article of the American treaty.

But neither in the correspondence nor in the personal conferences that brought about the agreement, was there a single hint that the settlement was to include any thing else whatever than the northwest coast on the Pacific Ocean, south of the sixtieth parallel of north latitude.

Fortunately, however, it is not necessary for the United States to rely on this suggestive definition of the northwest coast, or upon the historical facts above given. It is easy to prove from other sources that in the treaty between the United States and Russia the coast referred to was that which I have defined as the "northwest coast" on the Pacific Ocean south of 60° north latitude, or, as the Russians for a long time believed it, 59° 30'. We have in the Department of State the originals of the protocols between our minister at St. Petersburg, Mr. Henry Middleton, and Count Nesselrode, of Russia, who negotiated the treaty of 1824. I quote, as I have quoted in my note of June 30, a memorandum submitted to Count Nesselrode by Mr. Middleton as part of the fourth protocol:

Now, it is clear, according to the facts established, that neither Russia nor any other European power has the right of dominion upon the continent of America between the fiftieth and sixtieth degrees of north latitude.

Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

Therefore, she has not the right of exclusion or of admission on these coasts, nor in these seas, which are free seas.

The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or by a convention.

Mr. Middleton declares that Russia had not the right of dominion "*upon the continent of America between the fiftieth and sixtieth degrees of north latitude.*" Still less has she the dominion of "the adjacent maritime territory or the sea which washes these coasts." He further declares that Russia had not the "right of exclusion or of admission on *these coasts*, nor in *these seas, which are free seas*"—that is, the coasts and seas between the fiftieth and sixtieth degrees of north latitude *on the body of the continent.*

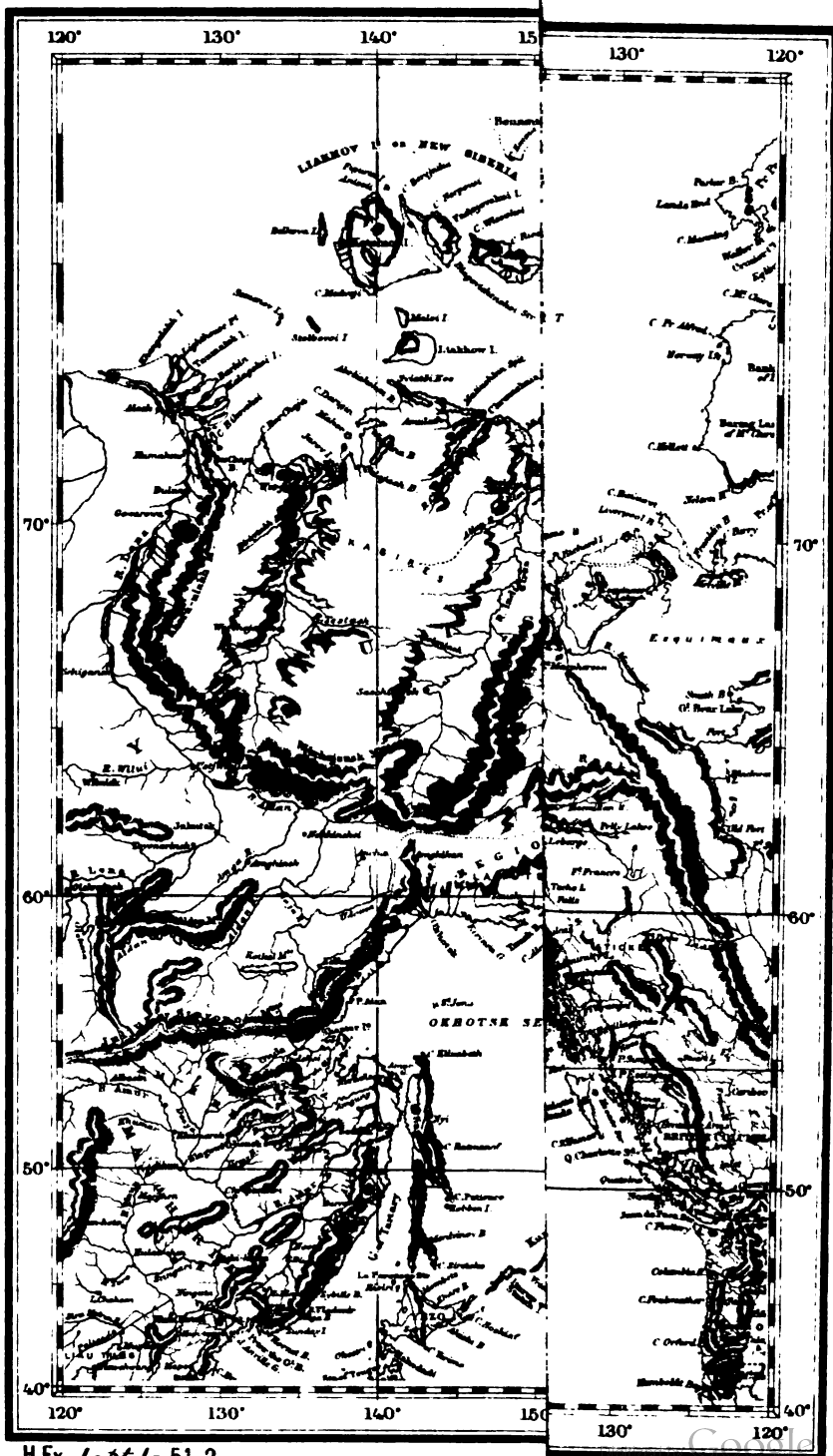
The following remark of Mr. Middleton deserves special attention:

The right of navigating all the *free seas* belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

This earnest protest by Mr. Middleton, it will be noted, was against the Ukase of Alexander which proposed to extend Russian sovereignty over the Pacific Ocean as far south as the fifty-first degree of latitude, at which point, as Mr. Adams reminded the Russian minister, that ocean is 4,000 miles wide. It is also to be specially noted that Mr. Middleton's double reference to "the free seas" would have no meaning whatever if he did not recognize that freedom on certain seas had been restricted. He could not have used the phrase if he had regarded all seas in that region as "free seas."

In answer to my former reference to these facts (in my note of June 30), Lord Salisbury makes this plea:

Mr. Blaine states that when Mr. Middleton declared that Russia had no right of exclusion on the coasts of America between the fiftieth and sixtieth degrees of north latitude, nor in the seas which washed those coasts, he intended to make a distinction between Behring's Sea and the Pacific Ocean. But on reference to a map it will be



seen that the sixtieth degree of north latitude strikes straight across Behring's Sea, leaving by far the larger and more important part of it to the south ; so that I confess it appears to me that by no conceivable construction of his words can Mr. Middleton be supposed to have excepted that sea from those which he declared to be free.

If His Lordship had examined his map somewhat more closely, he would have found my statement literally correct. When Mr. Middleton referred to "the continent of America between the fiftieth and sixtieth degrees of north latitude," it was impossible that he could have referred to the coast of Behring Sea, for the very simple reason that the fiftieth degree of latitude is altogether south of the Behring Sea. The fact that the sixtieth parallel "strikes straight across the Behring Sea" has no more pertinence to this discussion than if His Lordship had remarked that the same parallel passes through the Sea of Okhotsk, which lies to the west of Behring Sea, just as the arm of the North Pacific lies to the east of it. Mr. Middleton was denying Russia's dominion upon a continuous line of coast upon the continent between two specified points and over the waters washing that coast. There is such a continuous line of coast between the fiftieth and sixtieth degrees on the Pacific Ocean ; but there is no such line of coast on the Behring Sea, even if you measure from the southernmost island of the Aleutian chain. In a word, the argument of Lord Salisbury on this point is based upon a geographical impossibility. [See illustrative map on opposite page.]

But, if there could be any doubt left as to what coast and to what waters Mr. Middleton referred, an analysis of the last paragraph of the fourth protocol will dispel that doubt. When Mr. Middleton declared that "*the United States have exercised navigation in the seas, and commerce upon the coasts, above mentioned, from the time of their independence,*" he makes the same declaration that had been previously made by Mr. Adams. That declaration could only refer to the northwest coast as I have described it, or, as Mr. Middleton phrases it, "the continent of America between the fiftieth and sixtieth degrees of north latitude."

Even His Lordship would not dispute the fact that it was upon this coast and in the waters washing it that the United States and Great Britain had exercised free navigation and commerce continuously since 1784. By no possibility could that navigation and commerce have been in the Behring Sea. Mr. Middleton, a close student of history, and experienced in diplomacy, could not have declared that the United States had "exercised navigation" in the Behring Sea, and "commerce upon its coasts," *from the time of their independence*. As matter of history, there was no trade and no navigation (except the navigation of explorers) by the United States and Great Britain in the Behring Sea in 1784, or even at the time these treaties were negotiated.

Captain Cook's voyage of exploration and discovery through the waters of that sea was completed at the close of the year 1778, and his "Voyage to the Pacific Ocean" was not published in London until five years after his death, which occurred at the Sandwich Islands on the 14th of February, 1779. The Pribyloff Islands were first discovered, one in 1786 and the other in 1787. Seals were taken there for a few years afterwards by the Lebedef Company, of Russia, subsequently consolidated into the Russian-American Company ; but the taking of seals on those islands was then discontinued by the Russians until 1803, when it was resumed by the Russian-American Company.

At the time these treaties were negotiated there was only one settlement, and that of Russians, on the shores of the Behring Sea, and the only trading vessels which had entered that sea were the vessels of the Russian Fur Company. Exploring expeditions had, of course, entered.

It is evident, therefore, without further statement, that neither the vessels of the United States nor of Great Britain nor of any other power than Russia had traded on the shores of Behring Sea prior to the negotiations of these treaties. No more convincing proof could be adduced that these treaties had reference solely to the waters and coasts of the continent south of the Alaskan peninsula—simply the “Pacific Ocean” and the “northwest coast” named in the treaties.

The third article of the British treaty, as printed in the British State papers, is as follows:

The line of demarkation between the possessions of the high contracting parties, upon the coast of the continent, and the islands of America to the northwest, shall be drawn in the manner following:

Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of $54^{\circ} 40'$ north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the fifty-sixth degree of north latitude; from this last-mentioned point, the line of demarkation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the one hundred and forty-first degree of west longitude (of the same meridian); and, finally, from the said point of intersection the said meridian line of the one hundred and forty-first degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and the British possessions on the continent of America to the northwest.

It will be observed that this article explicitly delimits the boundary between British America and the Russian possessions. This delimitation is in minute detail from $54^{\circ} 40'$ to the northern terminus of the coast known as the northwest coast. When the boundary line reaches that point (opposite 60° north latitude) where it intersects the one hundred and forty-first degree of west longitude, all particularity of description ceases. From that point it is projected directly northward for 600 or 700 miles without any reference to coast line, without any reference to points of discovery or occupation (for there were none in that interior country), but simply on a longitudinal line as far north as the Frozen or Arctic Ocean.

What more striking interpretation of the treaty could there be than this boundary line itself? It could not be clearer if the British negotiators had been recorded as saying to the Russian negotiators:

“Here is the northwest coast to which we have disputed your claims—from the fifty-first to the sixtieth degree of north latitude. We will not, in any event, admit your right south of $54^{\circ} 40'$. From $54^{\circ} 40'$ to the point of junction with the one hundred and forty-first degree of west longitude we will agree to your possession of the coast. That will cover the dispute between us. As to the body of the continent above the point of intersection at the one hundred and forty-first degree of longitude, we know nothing, nor do you. It is a vast unexplored wilderness. We have no settlements there, and you have none. We have, therefore, no conflicting interests with your Government. The simplest division of that territory is to accept the prolongation of the one hundred and forty-first degree of longitude to the Arctic Ocean as the boundary. East of it the territory shall be British. West of it the territory shall be Russian.”

And it was so finally settled.

Article 4 of the Anglo-Russian treaty is as follows:

With reference to the line of demarkation laid down in the preceding article it is understood:

First. That the island called Prince of Wales Island shall belong wholly to Russia.

Second. That wherever the summit of the mountains which extend in a direction parallel to the coast, from the fifty-sixth degree of north latitude to the point of intersection of the one hundred and forty-first degree of west longitude, shall prove to be at the distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by "a line parallel to the windings of the coast, and which shall never exceed the distance of 10 marine leagues therefrom."

The evident design of this article was to make certain and definite the boundary line along the line of coast, should there be any doubt as to that line as laid down in article 3. It provided that the boundary line, following the windings of the coast, should never be more than ten marine leagues therefrom.

The fifth article of the treaty between Great Britain and Russia reads thus:

It is moreover agreed, that no establishment shall be formed by either of the two parties within the limits assigned by the two preceding articles to the possessions of the other. Consequently, British subjects shall not form any establishment either upon the coast, or upon the border of the continent, comprised within the limits of the Russian possessions, as designated in the two preceding articles; and, in like manner, no establishment shall be formed by Russian subjects beyond the said limits.

The plain meaning of this article is that neither party shall make settlements within the limits assigned by the third and fourth articles to the possession of the other. Consequently, the third and fourth articles are of supreme importance as making the actual delimitations between the two countries and forbidding each to form any establishments within the limits of the other.

The sixth article of Russia's treaty with Great Britain is as follows:

It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course toward the Pacific Ocean, may cross the line of demarkation upon the line of coast described in article 3 of the present convention.

The meaning of this article is not obscure. The subjects of Great Britain, whether arriving from the interior of the continent or from the ocean, shall enjoy the right of navigating freely all the rivers and streams which, in their course to the Pacific Ocean, *may cross the line of demarkation upon the line of coast described in article three*. As is plainly apparent, the coast referred to in article three is the coast south of the point of junction already described. Nothing is clearer than the reason for this provision. A *strip of land*, at no point wider than ten marine leagues, running along the Pacific Ocean from 54° 40' to 60° (320 miles by geographical line, by the windings of the coast three times that distance) was assigned to Russia by the third article. Directly to the east of this strip of land, or, as might be said, behind it, lay the British possessions. To shut out the inhabitants of the British possessions from the sea by this *strip of land* would have been not only unreasonable, but intolerable, to Great Britain. Russia promptly conceded the privilege, and gave to Great Britain the right of navigating all rivers crossing that strip of land from 54° 40' to the point of intersection with the one hundred and forty-first degree of longitude. Without this concession the treaty could not have been made. I do not understand that Lord Salisbury dissents from this obvious construction of the sixth article, for, in his dispatch, he says that the article has a "restricted bearing," and refers only to "the *line of coast described in article three*" (the italics are his own)—and the only line of coast described in article three is the coast from 54° 40' to 60°. There is no

description of the coast above that point stretching along the Behring Sea from latitude 60° to the straits of Behring.

The seventh article of the Anglo-Russian treaty, whose provisions have led to the principal contention between the United States and Great Britain, is as follows:

It is also understood, that for the space of ten years from the signature of the present convention the vessels of the two powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in article 3, for the purposes of fishing and of trading with the natives.

In the judgment of the President the meaning of this article is altogether plain and clear. It provides that for the space of ten years the vessels of the two powers should *mutually* be at liberty to frequent all the inland seas, etc., "*on the coast mentioned in article 3, for the purpose of fishing and trading with the natives.*" Following out the line of my argument and the language of the article, I have already maintained that this privilege could only refer to the coast from $54^{\circ} 40'$ to the point of intersection with the one hundred and forty-first degree of west longitude; that, therefore, British subjects were not granted the right of frequenting the Behring Sea.

Denying this construction, Lord Salisbury says:

I must further dissent from Mr. Blaine's interpretation of article 7 of the latter treaty (British). That article gives to the vessels of the two powers "liberty to frequent all the inland seas, gulfs, havens, and creeks on the coast mentioned in article 3, for the purpose of fishing and of trading with the natives." The expression "*coast mentioned in article 3*" can only refer to the first words of the article, "the line of demarkation between the possessions of the high contracting parties upon the coast of the continent and the islands of America to the northwest shall be drawn," etc.; that is to say, it included all the possessions of the two powers on the Northwest coast of America. For there would have been no sense whatever in stipulating that Russian vessels should have freedom of access to the small portion of coast which, by a later part of the article, is to belong to Russia. And, as bearing on this point, it will be noticed that article 6, which has a more restricted bearing, speaks only of "the subjects of His Britannic Majesty" and of "*the line of coast described in article 3.*"

It is curious to note the embarrassing intricacies of His Lordship's language and the erroneous assumption upon which his argument is based. He admits that the privileges granted in the sixth article to the subjects of Great Britain are limited to "*the coast described in article 3 of the treaty.*" But when he reaches the seventh article, where the privileges granted are limited to "*the coast mentioned in article 3 of the treaty,*" His Lordship maintains that the two references do not mean the same coast at all. The *coast described* in article 3 and the *coast mentioned* in article 3 are therefore, in His Lordship's judgment, entirely different. The "*coast described* in article 3" is limited, he admits, by the intersection of the boundary line with the one hundred and forty-first degree of longitude, but the "*coast mentioned* in article 3" stretches to the straits of Behring.

The third article is, indeed, a very plain one, and its meaning can not be obscured. Observe that the "line of demarkation" is between the possessions of both parties *on the coast* of the continent. Great Britain had no possessions on the coast-line above the point of junction with the one hundred and forty-first degree, nor had she any settlements above 60° north latitude. South of 60° north latitude was the only place where Great Britain had possessions on the coast-line. North of that point her territory had no connection whatever with the coast either of the Pacific Ocean or the Behring Sea. It is thus evident that the only coast referred to in article 3 was this *strip of land* south of 60° or $59^{\circ} 30'$.

The preamble closes by saying that the line of demarkation between the possessions on the coast "shall be drawn in the manner following,"

viz: From Prince of Wales Island, in $54^{\circ} 40'$, along Portland Channel and the summit of the mountains parallel to the coast *as far as their intersection with the one hundred and forty-first degree of longitude*. After having described this line of demarkation between the possessions of both parties on the coast, the remaining sentence of the article shows that, "finally, from the said point of intersection, the said meridian line * * * shall form the limit between the Russian and British possessions on the continent of America." South of the point of intersection the article describes a *line of demarkation* between possessions *on the coast*; north of that point of intersection the article designates a meridian line as *the limit* between possessions *on the continent*. The argument of Lord Salisbury appears to this Government not only to contradict the obvious meaning of the seventh and third articles, but to destroy their logical connection with the other articles. In fact, Lord Salisbury's attempt to make two coasts out of the one coast referred to in the third article is not only out of harmony, with the plain provisions of the Anglo-Russian treaty, but is inconsistent with the preceding part of his own argument.

These five articles in the British treaty (the third, fourth, fifth, sixth, and seventh) are expressed with an exactness of meaning which no argument can change or pervert. In a later part of my note I shall be able, I think, to explain why the Russian Government elaborated the treaty with Great Britain with greater precision and at greater length than was employed in framing the treaty with the United States. It will be remembered that between the two treaties there was an interval of more than ten months—the treaty with the United States being negotiated in April, 1824, and that with Great Britain in February, 1825. During that interval something occurred which made Russia more careful and more exacting in her negotiations with Great Britain than she had been with the United States. What was it?

It is only necessary to quote the third and fourth articles of the American treaty to prove that less attention was given to their consideration than was given to the formation of the British treaty with Russia. The two articles in the American treaty are as follows:

ARTICLE III.—It is moreover agreed that, hereafter there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of $54^{\circ} 40'$ of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ART. IV.—It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

It will be noted that in the British treaty four articles, with critical expression of terms, take the place of the third and fourth articles of the American treaty, which were evidently drafted with an absence of the caution on the part of Russia which marked the work of the Russian plenipotentiaries in the British negotiation.

From some cause, not fully explained, great uneasiness was felt in certain Russian circles, and especially among the members of the Russian-American Company, when the treaty between Russia and the United States was made public. The facts leading to the uneasiness were not accurately known, and from that cause they were exaggerated.

The Russians who were to be affected by the treaty were in doubt as to the possible extent implied by the phrase "northwest coast of America," as referred to in the third and fourth articles. The phrase, as I have before said, was used in two senses, and they feared it might have such a construction as would carry the American privilege to the straits of Behring. They feared, moreover, that the uncertainty of the coast referred to in article 3 might, by construction adverse to Russia, include the Behring Sea among the seas and gulfs mentioned in article four. If that construction should prevail, not only the American coast, but the coast of Siberia and the Aleutian coasts might also be thrown open to the ingress of American fishermen. So great and genuine was their fright that they were able to induce the Russian Government to demand a fresh discussion of the treaty before they would consent to exchange ratifications.

It is easy, therefore, to discern the facts which caused the difference in precision between the American and British treaties with Russia, and which at the same time give conclusive force to the argument steadily maintained by the Government of the United States. These facts have thus far only been hinted at, and I have the right to presume that they have not yet fallen under the observation of Lord Salisbury. The President hopes that after the facts are presented the American contention will no longer be denied or resisted by Her Majesty's Government.

Nearly eight months after the Russo-American treaty was negotiated, and before the exchange of ratifications had yet taken place, there was a remarkable interview between Secretary Adams and the Russian minister. I quote from Mr. Adams's diary, December 6, 1824:

6th, Monday.—Baron Tuyl, the Russian minister, wrote me a note requesting an immediate interview, in consequence of instructions received yesterday from his Court. He came, and, after intimating that he was under some embarrassment in executing his instructions, said that the Russian-American Company, upon learning the purport of the northwest coast convention concluded last June by Mr. Middleton, were extremely dissatisfied (*a jeté de haute cris*), and, by means of their influence, had prevailed upon his Government to send him these instructions upon two points. One was that he should deliver, upon the exchange of the ratifications of the convention, an explanatory note purporting that the Russian Government did not understand that the convention would give liberty to the citizens of the United States to trade on the coast of Siberia and the Aleutian Islands. The other was to propose a modification of the convention, by which our vessels should be prohibited from trading on the northwest coast north of latitude 57°. With regard to the former of these points he left with me a minute in writing.

With this preliminary statement Baron Tuyl, in accordance with instructions from his Government, submitted to Mr. Adams the following note:

EXPLANATORY NOTE FROM RUSSIA.

Explanatory note to be presented to the Government of the United States at the time of the exchange of ratifications, with a view to removing with more certainty all occasion for future discussions; by means of which note it will be seen that the *Aleutian Islands, the coasts of Siberia, and the Russian Possessions in general on the northwest coast of America to 59° 30' of north latitude* are positively excepted from the liberty of hunting, fishing, and commerce stipulated in favor of citizens of the United States for ten years.

This seems to be only a natural consequence of the stipulations agreed upon, for the *coasts of Siberia* are washed by the Sea of Okhotsk, the Sea of Kamtschatka, and the Icy Sea, and not by the *South Sea* mentioned in the first article of the convention of April 5-17 [1824]. The *Aleutian Islands* are also washed by the Sea of Kamtschatka, or Northern Ocean.

It is not the intention of Russia to impede the free navigation of the Pacific Ocean. She would be satisfied with causing to be recognized, as well understood and placed beyond all manner of doubt, the principle that beyond 59° 30' no foreign vessel can approach her coasts and her islands, nor fish or hunt within the distance of two marine leagues. This will not prevent the reception of foreign vessels which have been damaged or beaten by storm.

The course pursued by Mr. Adams, after the Russian note had been submitted to him, is fully told in his diary, from which I again quote:

I told Baron Tuyl that we should be disposed to do every thing to accommodate the views of his Government that was in our power, but that a modification of the convention *could* be made no otherwise than by a new convention, and that the construction of the convention as concluded belonged to other departments of the Government, for which the Executive had no authority to stipulate. * * * I added that the convention would be submitted immediately to the Senate; that if any thing affecting its construction, or, still more, modifying its meaning, were to be presented on the part of the Russian Government before or at the exchange of the ratifications, it must be laid before the Senate, and could have no other possible effect than of starting doubts, and, perhaps, hesitation, in that body, and of favoring the views of those, if such there were, who might wish to defeat the ratification itself of the convention. * * * If, therefore, he would permit me to suggest to him what I thought would be his best course, it would be to wait for the exchange of the ratifications, and make it purely and simply; that afterwards, if the instructions of his Government were imperative, he might present the note, to which I now informed him what would be, in substance, my answer. It necessarily could not be otherwise. But, if his instructions left it discretionary with him, he would do still better to inform his Government of the state of things here, of the purport of our conference, and of what my answer must be if he should present the note. I believed his Court would then deem it best that he should not present the note at all. *Their apprehension had been excited by an interest not very friendly to the good understanding between the United States and Russia. Our merchants would not go to trouble the Russians on the coast of Siberia, or north of the fifty-seventh degree of latitude, and it was wisest not to put such fancies into their heads.* At least the Imperial Government might wait to see the operation of the convention before taking any further step, and *I was confident they would hear no complaint resulting from it.* If they should, then would be the time for adjusting the construction or negotiating a modification of the convention. * * *

The Russian minister was deeply impressed by what Mr. Adams had said. He had not before clearly perceived the inevitable effect if he should insist on presenting the note in the form of a demand. He was not prepared for so serious a result as the destruction or the indefinite postponement of the treaty between Russia and the United States, and Mr. Adams readily convinced him that at the exchange of ratifications no modification of the treaty could be made. The only two courses open were, first, to ratify; or, second, to refuse, and annul the treaty. Mr. Adams reports the words of the minister in reply:

The Baron said that these ideas had occurred to himself; that he had made this application in pursuance of his instructions, but he was aware of the distribution of powers in our Constitution and of the incompetency of the Executive to adjust such questions. He would therefore wait for the exchange of the ratifications without presenting his note, and reserve for future consideration whether to present it shortly afterwards or to inform his Court of what he has done and ask their further instructions upon what he shall definitely do on the subject. * * *

As Baron Tuyl surrendered his opinions to the superior judgment of Mr. Adams, the ratifications of the treaty were exchanged on the 11th day of January, and on the following day the treaty was formally proclaimed. A fortnight later, on January 25, 1825, Baron Tuyl, following the instructions of his Government, filed his note in the Department of State. Of course, his act at that time did not affect the text of the treaty; but it placed in the hands of the Government of the United States an unofficial note which significantly told what Russia's construction of the treaty would be if, unhappily, any difference as to its meaning should arise between the two governments. But Mr. Adams's friendly intimation removed all danger of dispute, for it conveyed to Russia the assurance that the treaty, as negotiated, contained, in effect, the provisions which the Russian note was designed to supply. From that time until Alaska, with all its rights of land and water, was transferred to the United States—a period of forty-three years—no act or word on the part of either government ever impeached the full validity

of the treaty as it was understood both by Mr. Adams and by Baron Tuyl at the time it was formally proclaimed.

While these important matters were transpiring in Washington, negotiations between Russia and England (ending in the treaty of 1825) were in progress in St. Petersburg. The instructions to Baron Tuyl concerning the Russian-American treaty were fully reflected in the care with which the Anglo-Russian treaty was constructed, a fact to which I have already adverted in full. There was, indeed, a possibility that the true meaning of the treaty with the United States might be misunderstood, and it was therefore the evident purpose of the Russian Government to make the treaty with England so plain and so clear as to leave no room for doubt and to baffle all attempts at misconstruction. The Government of the United States finds the full advantage to it in the caution taken by Russia in 1825, and can therefore quote the Anglo-Russian treaty, with the utmost confidence that its meaning can not be changed from that clear, unmistakable text, which, throughout all the articles, sustains the American contention.

The "explanatory note" filed with this Government by Baron Tuyl is so plain in its text that, after the lapse of sixty six years, the exact meaning can neither be misapprehended nor misrepresented. It draws the distinction between the Pacific Ocean and the waters now known as the Behring Sea so particularly and so perspicuously that no answer can be made to it. It will bear the closest analysis in every particular. "It is not the intention of Russia to impede the free navigation of the Pacific Ocean!" This frank and explicit statement shows with what entire good faith Russia had withdrawn, in both treaties, the offensive Ukase of Alexander, so far as the Pacific Ocean was made subject to it. Another avowal is equally explicit, viz, that "the coast of Siberia, the northwest coast of America to 59° 30' of north latitude [that is, down to 59° 30', the explanatory note reckoning from north to south], and the Aleutian Islands are positively excepted from the liberty of hunting, fishing, and commerce stipulated in favor of citizens of the United States for ten years." The reason given for this exclusion is most significant in connection with the pending discussion, namely, that the coasts of Siberia are washed by the Sea of Okhotsk, the Sea of Kamtschatka, and the Icy Sea, and not by the "South Sea" [Pacific Ocean] mentioned in the first article of the convention of April 5-17, 1824. The Aleutian Islands are also washed by the Sea of Kamtschatka, or Northern Ocean (Northern Ocean being used in contradistinction to South Sea or Pacific Ocean). The liberty of hunting, fishing, and commerce, mentioned in the treaties, was therefore confined to the coast of the Pacific Ocean south of 59° 30' both to the United States and Great Britain. It must certainly be apparent now to Lord Salisbury that Russia never intended to include the Behring Sea in the phrase "Pacific Ocean." The American argument on that question has been signally vindicated by the official declaration of the Russian Government.

In addition to the foregoing, Russia claimed jurisdiction of two marine leagues from the shore in the Pacific Ocean, a point not finally insisted upon in either treaty. The protocols, however, show that Great Britain was willing to agree to the two marine leagues, but the United States was not; and, after the concession was made to the United States, Mr. G. Canning insisted upon its being made to Great Britain also.

In the interview between the American Secretary of State and the Russian minister, in December, 1824, it is worth noting that Mr. Adams believed that the application made by Baron Tuyl had its origin "in the apprehension of the Court of Russia which had been caused by an

interest not very friendly to the good understanding between the United States and Russia." I presume no one need be told that the reference here made by Mr. Adams was to the Government of Great Britain; that the obvious effort of the British Government at that time was designed to make it certain that the United States should not have the power in the waters and on the shores of Behring Sea which, *Lord Salisbury now argues, had undoubtedly been given both to the United States and Great Britain by the treaties.*

It is to be remembered that Mr. Adams's entire argument was to quiet Baron Tuyl with the assurance that the treaty already negotiated was, in effect, just what the Russian Government desired it to be by the incorporation of the "explanatory note" of which Baron Tuyl was the bearer. Mr. Adams was not a man to seize an advantage merely by cunning construction of language, which might have two meanings. He was determined to remove the hesitation and distrust entertained for the moment by Russia. He went so far, indeed, as to give an assurance that American ships would not go above 57° north latitude (Sitka), and he did not want the text of the treaty so changed as to mention the facts contained in the explanatory note, because, speaking of the hunters and the fishermen, it "was wisest not to put such fancies into their heads."

It is still further noticeable that Mr. Adams, in his sententious expression, spoke of the treaty in his interview with Baron Tuyl as "the northwest coast convention." This closely descriptive phrase was enough to satisfy Baron Tuyl that Mr. Adams had not taken a false view of the true limits of the treaty and had not attempted to extend the privileges granted to the United States a single inch beyond their plain and honorable intent.

The three most confident assertions made by Lord Salisbury, and regarded by him as unanswerable, are, in his own language, the following:

- (1) That England refused to admit any part of the Russian claim asserted by the Ukase of 1821 of a maritime jurisdiction and exclusive right of fishing throughout the whole extent of that claim, from Behring Straits to the fifty-first parallel.
- (2) That the Convention of 1825 was regarded on both sides as a renunciation on the part of Russia of that claim in its entirety.
- (3) That, though Behring Straits were known and specifically provided for, Behring Sea was not known by that name, but was regarded as a part of the Pacific Ocean.

The explanatory note of the Russian Government disproves and denies in detail these three assertions of Lord Salisbury. I think they are completely disproved by the facts recited in this dispatch, but the explanatory note is a specific contradiction of each one of them.

The "inclosures" which accompanied Lord Salisbury's dispatch, and which are quoted to strengthen his arguments, seem to me to sustain, in a remarkable manner, the position of the United States. The first inclosure is a dispatch from Lord Londonderry to Count Lieven, Russian minister at London, dated Foreign Office, January 18, 1822. The first paragraph of this dispatch is as follows:

The undersigned has the honor to acknowledge the note addressed to him by Baron de Nicolai of the 12th of September last, covering a copy of a Ukase issued by his imperial master, Emperor of all the Russias, bearing date 4th September, 1821, for various purposes therein set forth, *especially connected with the territorial rights of his Crown on the northwest coast of America bordering on the Pacific Ocean, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto.*

It is altogether apparent that this dispatch is limited to the withdrawal of the provisions of the Ukase issued by the Emperor Alexander, especially connected with *the territorial rights on the northwest coast bordering on the Pacific Ocean*. Evidently Lord Londonderry makes no reference, direct or indirect, to the Behring Sea. The whole scope of his contention, as defined by himself, lies outside of the field of the present dispute between the British and American governments. This Government heartily agrees with Lord Londonderry's form of stating the question.

The Duke of Wellington was England's representative in the Congress of Verona, for which place he set out in the autumn of 1822. His instructions from Mr. G. Canning, British secretary of foreign affairs, followed the precise line indicated by Lord Londonderry in the dispatch above quoted. This is more plainly shown by a "memorandum on the Russian Ukase" delivered by the Duke on the 17th of October to Count Nesselrode, Russia's representative at Verona. The Duke was arguing against the Ukase of Alexander as it affected British interests, and his language plainly shows that he confined himself to the "northwest coast of America bordering *on the Pacific Ocean*." To establish this it is only necessary to quote the following paragraph from the Duke's memorandum, viz :

Now, we can prove that the English Northwest Company and the Hudson's Bay Company have for many years established forts and other trading places in a country called New Caledonia, situated to the west of a range of mountains called the Rocky Mountains and extending along *the shores of the Pacific Ocean* from latitude 49° to latitude 60° north.

The Duke of Wellington always went directly to the point at issue, and he was evidently not concerning himself about any subject other than the protection of the English territory south of the Alaskan peninsula and on the northwest coast *bordering on the Pacific Ocean*. England owned no territory on the coast north of the Alaskan peninsula, and hence there was no reason for connecting the coast above the peninsula in any way with the question before the Congress. Evidently the Duke did not, in the remotest manner, connect the subject he was discussing with the waters or the shores of the Behring Sea.

The most significant and important of all the inclosures is No. 12, in which Mr. Stratford Canning, the British negotiator at St. Petersburg, communicated, under date of March 1, 1825, to Mr. G. Canning, minister of Foreign Affairs, the text of the treaty between England and Russia. Some of Mr. Stratford Canning's statements are very important. In the second paragraph of his letter he makes the following statement:

The line of demarkation along the *strip of land* on the northwest coast of America, assigned to Russia, is laid down in the convention agreeably to your directions.

After all, then, it appears that the "strip of land," to which we have already referred more than once, was reported by the English plenipotentiary at St. Petersburg. This clearly and undeniably exhibits the field of controversy between Russia and England, even if we had no other proof of the fact. It was solely on the northwest coast bordering on the Pacific Ocean, and not in the Behring Sea at all. It is the same *strip of land* which the United States acquired in the purchase of Alaska, and runs from 54° 40' to 60° north latitude—the same *strip of land* which gave to British America, lying *behind* it, a free access to the ocean.

Mr. Stratford Canning also communicated, in his letter of March 1, the following:

With respect to Behring's Straits, I am happy to have it in my power to assure you, on the joint authority of the Russian plenipotentiaries, that *the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of those straits or of the seas to the north of them.*

This assurance from the Emperor of Russia is of that kind where the power to give or to withhold is absolute. If the treaty of 1825 between Great Britain and Russia had conceded such rights in the Behring waters as Lord Salisbury now claims, why was Sir Stratford Canning so "happy" to "have it in his power to assure" the British foreign office, on "the authority of two Russian plenipotentiaries," that "the Emperor had no intention of maintaining an exclusive claim to the navigation of the Behring Straits," or of the "seas to the north of them." *The seas to the south of the straits* were most significantly not included in the Imperial assurance. The English statesmen of that day had, as I have before remarked, attempted the abolition of the Ukase of Alexander only so far as it affected the coast of the Pacific Ocean from the fifty-first to the sixtieth degree of north latitude. It was left in full force on the shores of the Behring Sea. There is no proof whatever that the Russian Emperor annulled it there. That sea, from east to west, is 1,300 miles in extent; from north to south it is 1,000 miles in extent. The whole of this great body of water, under the Ukase, was left open to the world, except a strip of 100 miles from the shore. But with these 100 miles enforced on all the coasts of the Behring Sea it would be obviously impossible to approach the straits of Behring, which were less than 50 miles in extreme width. If enforced strictly, the Ukase would cut off all vessels from passing through the straits to the Arctic Ocean. If, as Lord Salisbury claims, the Ukase had been withdrawn from the entire Behring coast, as it was between the fifty-first and sixtieth degrees on the Pacific coast, what need would there have been for Mr. Stratford Canning, the English plenipotentiary, to seek a favor from Russia in regard to passing through the straits into the Arctic Ocean, where scientific expeditions and whaling vessels desired to go?

I need not review all the inclosures; but I am sure that, properly analyzed, they will all show that the subject-matter touched only the settlement of the dispute on the northwest coast, from the fifty-first to the sixtieth degree of north latitude. In other words, they related to the contest which was finally adjusted by the establishment of the line of 54° 40', which marked the boundary between Russian and English territory at the time of the Anglo-Russian treaty, as to-day it marks the line of division between Alaska and British Columbia. But that question in no way touched the Behring Sea; it was confined wholly to the Pacific Ocean and the Northwest coast.

Lord Salisbury has deemed it proper, in his dispatch, to call the attention of the Government of the United States to some elementary principles of international law touching the freedom of the seas. For our better instruction he gives sundry extracts from Wheaton and Kent—our most eminent publicists—and, for further illustration, quotes from the dispatches of Secretaries Seward and Fish, all maintaining the well-known principle that a nation's jurisdiction over the sea is limited

to three marine miles from its shore line. Commenting on these quotations, His Lordship says :

A claim of jurisdiction over the open sea which is not in accordance with the recognized principles of international law or usage may, of course, be asserted by force, but can not be said to have any legal validity as against the vessels of other countries, except in so far as it is positively admitted in conventional agreements with those countries.

The United States, having the most extended sea-coast of all the nations of the world, may be presumed to have paid serious attention to the laws and usages which define and limit maritime jurisdiction. The course of this Government has been uniformly in favor of upholding the recognized law of nations on that subject. While Lord Salisbury's admonitions are received in good part by this Government, we feel justified in asking His Lordship if the Government of Great Britain has uniformly illustrated these precepts by example, or whether she has not established at least one notable precedent which would justify us in making greater demands upon Her Majesty's Government touching the Behring Sea than either our necessities or our desires have ever suggested ? The precedent to which I refer is contained in the following narrative :

Napoleon Bonaparte fell into the power of Great Britain on the 15th day of July, 1815. The disposition of the illustrious prisoner was primarily determined by a treaty negotiated at Paris on the 2d of the following August between Great Britain, Russia, Prussia, and Austria. By that treaty "the custody of Napoleon is specially intrusted to the British Government." The choice of the place and of the measures which could best secure the prisoner were especially reserved to His Britannic Majesty. In pursuance of this power, Napoleon was promptly sent by Great Britain to the island of St. Helena as a prisoner for life. Six months after he reached St. Helena the British Parliament enacted a special and extraordinary law for the purpose of making his detention more secure. It was altogether a memorable statute, and gave to the British governor of the island of St. Helena remarkable powers over the property and rights of other nations. The statute contains eight long sections, and in the fourth section assumes the power to exclude ships of any nationality, not only from landing on the island, but forbids them "to hover within 8 leagues of the coast of the island." The penalty for hovering within 8 leagues of the coast is the forfeiture of the ship to His Majesty the King of Great Britain, on trial to be had in London, and the offense to be the same as if committed in the county of Middlesex. This power was not assumed by a military commander, pleading the silence of law amid the clash of arms; nor was it conferred by the power of civil Government in a crisis of public danger. It was a Parliamentary enactment in a season of profound peace that was not broken in Europe by war among the great Powers for eight and thirty years thereafter. [See inclosure C.]

The British Government thus assumed exclusive and absolute control over a considerable section of the South Atlantic Ocean, lying directly in the path of the world's commerce, near the capes which mark the southernmost points of both hemispheres, over the waters which for centuries had connected the shores of all continents, and afforded the commercial highway from and to all the ports of the world. The body of water thus controlled, in the form of a circle nearly 50 miles in diameter, was scarcely less than 2,000 square miles in extent; and whatever ship dared to tarry or hover within this area might, regardless of its nationality, be forcibly seized and summarily forfeited to the British King.

The United States had grave and special reasons for resenting this peremptory assertion of power by Great Britain. On the 3d day of July, 1815, a fortnight after the battle of Waterloo and twelve days before Napoleon became a prisoner of war, an important commercial treaty was concluded at London between the United States and Great Britain. It was the sequel to the Treaty of Ghent, which was concluded some six months before, and was remarkable, not only from the character of its provisions, but from the eminence of the American negotiators—John Quincy Adams, Henry Clay, and Albert Gallatin. Among other provisions of this treaty relaxing the stringent colonial policy of England was one which agreed that American ships should be admitted and hospitably received at the island of St. Helena. Before the ratifications of the treaty were exchanged, in the following November, it was determined that Napoleon should be sent to St. Helena. England thereupon declined to ratify the treaty unless the United States should surrender the provision respecting that island. After that came the stringent enactment of Parliament forbidding vessels to hover within 24 miles of the island. The United States was already a great commercial power. She had 1,400,000 tons of shipping; more than five hundred ships bearing her flag were engaged in trade around the capes. Lord Salisbury has had much to say about the liberty of the seas, but these five hundred American ships were denied the liberty of the seas in a space 50 miles wide in the South Atlantic Ocean by the express authority of Great Britain.

The act of Parliament which asserted this power over the sea was to be in force as long as Napoleon should live. Napoleon was born the same year with Wellington, and was therefore but forty-six years of age when he was sent to St. Helena. His expectation of life was then as good as that of the Duke, who lived until 1852. The order made in April, 1816, to obstruct free navigation in a section of the South Atlantic might, therefore, have been in force for the period of thirty-six years, if not longer. It actually proved to be for five years only. Napoleon died in 1821.

It is hardly conceivable that the same nation which exercised this authority in the broad Atlantic over which, at that very time, eight hundred millions of people made their commercial exchanges, should deny the right of the United States to assume control over a limited area, for a fraction of each year, in a sea which lies far beyond the line of trade, whose silent waters were never cloven by a commercial prow, whose uninhabited shores have no port of entry and could never be approached on a lawful errand under any other flag than that of the United States. Is this Government to understand that Lord Salisbury justifies the course of England? Is this Government to understand that Lord Salisbury maintains the right of England, at her will and pleasure, to obstruct the highway of commerce in mid-ocean, and that she will at the same time interpose objections to the United States exercising her jurisdiction beyond the 3-mile limit, in a remote and unused sea, for the sole purpose of preserving the most valuable fur seal fishery in the world, from remediless destruction?

If Great Britain shall consider that the precedent set at St. Helena of obstruction to the navigable waters of the ocean is too remote for present quotation, I invite her attention to one still in existence. Even to-day, while Her Majesty's Government is aiding one of her colonies to destroy the American seal fisheries, another colony, with her consent, has established a pearl fishery in an area of the Indian Ocean, 600 miles

wide. And so complete is the assumption of power that, according to Sir George Baden-Powell, a license fee is collected from the vessels engaged in the pearl fisheries in the open ocean. The asserted power goes to the extent of making foreign vessels that have procured their pearls far outside the 3-mile limit pay a heavy tax when the vessels enter an Australian port to land cargoes and refit. Thus the foreign vessel is hedged in on both sides, and is bound to pay the tax under British law, because, as Sir George Baden-Powell intimates, the voyage to another port would probably be more expensive than the tax. I quote further from Sir George to show the extent to which British assumption of power over the Ocean has gone:

The right to charge these dues and to exercise this control *outside the 3-mile limit* is based on an act of the Federal Council of Australasia, which (Federal Council act, 1885, section 15) enacts that the council shall have legislative authority, *inter alia*, in respect of fisheries in Australian waters outside territorial limits. In 1889 this council passed an act to "regulate the pearl shell and *beche de mer* fisheries in Australian waters adjacent to the colony of Western Australia." In 1888 a similar act had been passed, dealing with the fisheries in the seas adjacent to Queensland (on the east coast).

I am directed by the President to say that, on behalf of the United States, he is willing to adopt the text used in the act of Parliament to exclude ships from hovering nearer to the island of St. Helena than eight marine leagues, or he will take the example cited by Sir George Baden-Powell, where, by permission of Her Majesty's Government, control over a part of the ocean 600 miles wide is to-day authorized by Australian law. The President will ask the Government of Great Britain to agree to the distance of twenty marine leagues—within which no ship shall hover around the islands of St. Paul and St. George, from the 15th of May to the 15th of October of each year. This will prove an effective mode of preserving the seal fisheries for the use of the civilized world—a mode which, in view of Great Britain's assumption of power over the open ocean, she can not with consistency decline. Great Britain prescribed eight leagues at St. Helena; but the obvious necessities in the Behring Sea will, on the basis of this precedent, justify twenty leagues for the protection of the American seal fisheries.

The United States desires only such control over a limited extent of the waters in the Behring Sea, for a part of each year, as will be sufficient to insure the protection of the fur seal fisheries, already injured, possibly, to an irreparable extent by the intrusion of Canadian vessels, sailing with the encouragement of Great Britain and protected by her flag. The gravest wrong is committed when (as in many instances is the case) American citizens, refusing obedience to the laws of their own country, have gone into partnership with the British flag and engaged in the destruction of the seal fisheries which belong to the United States. So general, so notorious, and so shamelessly avowed has this practice become that last season, according to the report of the American consul at Victoria, when the intruders assembled at Unalakleet on the 4th of July, previous to entering Behring Sea, the day was celebrated in a patriotic and spirited manner by the American citizens, who, at the time, were protected by the British flag in their violation of the laws of their own country.

With such agencies as these, devised by the Dominion of Canada and protected by the flag of Great Britain, American rights and interests have, within the past four years, been damaged to the extent of millions of dollars, with no corresponding gain to those who caused the loss. From 1870 to 1890 the seal fisheries—carefully guarded and pre-

served—yielded one hundred thousand skins each year. The Canadian intrusions began in 1886, and so great has been the damage resulting from their destruction of seal life in the open sea surrounding the Pribyloff Islands, that in 1890 the Government of the United States limited the Alaska Company to sixty thousand seals. But the company was able to secure only twenty-one thousand seals. Under the same evil influences that have been active now for five seasons the seal fisheries will soon be utterly destroyed. Great Britain has been informed, advised, warned over and over again, of the evil effects that would flow from her course of action; but, against testimony that amounts to demonstration, she has preferred to abide by personal representations from Ottawa, by reports of commissioners who examined nothing and heard nothing, except the testimony of those engaged in the business against which the United States has earnestly protested. She may possibly be convinced of the damage if she will send an intelligent commissioner to the Pribyloff Islands.

In general answer to all these facts, Great Britain announces that she is willing to settle the dispute by arbitration. Her proposition is contained in the following paragraph, which I quote in full:

I have to request that you will communicate a copy of this dispatch, and of its inclosures, to Mr. Blaine. You will state that Her Majesty's Government have no desire whatever to refuse to the United States any jurisdiction in Behring Sea which was conceded by Great Britain to Russia, and which properly accrues to the present possessors of Alaska in virtue of treaties or the law of nations; and that, if the United States Government, after examination of the evidence and arguments which I have produced, still differ from them as to the legality of the recent captures in that sea, they are ready to agree that the question, with the issues that depend upon it, should be referred to impartial arbitration. You will in that case be authorized to consider, in concert with Mr. Blaine, the method of procedure to be followed.

In his annual message, sent to Congress on the first of the present month, the President, speaking in relation to the Behring Sea question, said:

The offer to submit the question to arbitration, as proposed by Her Majesty's Government, has not been accepted, for the reason that the form of submission proposed is not thought to be calculated to assure a conclusion satisfactory to either party.

In the judgment of the President, nothing of importance would be settled by proving that Great Britain conceded no jurisdiction to Russia over the seal fisheries of the Behring Sea. It might as well be proved that Russia conceded no jurisdiction to England over the River Thames. By doing nothing in each case every thing is conceded. In neither case is anything asked of the other. "Concession," as used here, means simply *acquiescence* in the rightfulness of the title, and that is the only form of concession which Russia asked of Great Britain or which Great Britain gave to Russia.

The second offer of Lord Salisbury to arbitrate, amounts simply to a submission of the question whether any country has a right to extend its jurisdiction more than one marine league from the shore? No one disputes that, as a rule; but the question is whether there may not be exceptions whose enforcement does not interfere with those highways of commerce which the necessities and usage of the world have marked out. Great Britain, when she desired an exception, did not stop to consider or regard the inconvenience to which the commercial world might be subjected. Her exception placed an obstacle in the highway between continents. The United States, in protecting the seal fisheries, will not interfere with a single sail of commerce on any sea of the globe.

It will mean something tangible, in the President's opinion, if Great Britain will consent to arbitrate the real questions which have been

under discussion between the two Governments for the last four years. I shall endeavor to state what, in the judgment of the President, those issues are:

First. What exclusive jurisdiction in the sea now known as the Behring Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

Second. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

Third. Was the body of water now known as the Behring Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring Sea were given or conceded to Great Britain by the said treaty?

Fourth. Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring Sea east of the water boundary, in the treaty between the United States and Russia of March 30, 1867, pass unimpaired to the United States under that treaty?

Fifth. What are now the rights of the United States as to the fur seal fisheries in the waters of the Behring Sea outside of the ordinary territorial limits, whether such rights grow out of the cession by Russia of any special rights or jurisdiction held by her in such fisheries or in the waters of Behring Sea, or out of the ownership of the breeding islands and the habits of the seals in resorting thither and rearing their young thereon and going out from the islands for food, or out of any other fact or incident connected with the relation of those Seal Fisheries to the territorial possessions of the United States?

Sixth. If the determination of the foregoing questions shall leave the subject in such position that the concurrence of Great Britain is necessary in prescribing regulations for the killing of the fur seal in any part of the waters of Behring Sea, then it shall be further determined: First, how far, if at all, outside the ordinary territorial limits it is necessary that the United States should exercise an exclusive jurisdiction in order to protect the seal for the time living upon the islands of the United States and feeding therefrom? Second, whether a closed season (during which the killing of seals in the waters of Behring Sea outside the ordinary territorial limits shall be prohibited) is necessary to save the seal fishing industry, so valuable and important to mankind, from deterioration or destruction? And, if so, third, what months or parts of months should be included in such season, and over what waters it should extend?

The repeated assertions that the Government of the United States demands that the Behring Sea be pronounced *mare clausum*, are without foundation. The Government has never claimed it and never desired it. It expressly disavows it. At the same time the United States does not lack abundant authority, according to the ablest exponents of International law, for holding a small section of the Behring Sea for the protection of the fur seals. Controlling a comparatively restricted area of water for that one specific purpose is by no means the equivalent of declaring the sea, or any part thereof, *mare clausum*. Nor is it by any means so serious an obstruction as Great Britain assumed to make in the South Atlantic, nor so groundless an interference with the common law of the sea as is maintained by British authority to-day in the Indian Ocean. The President does not, however, desire the long

postponement which an examination of legal authorities from Ulpian to Phillimore and Kent would involve. He finds his own views well expressed by Mr. Phelps, our late minister to England, when, after failing to secure a just arrangement with Great Britain touching the seal fisheries, he wrote the following in his closing communication to his own Government, September 12, 1888:

Much learning has been expended upon the discussion of the abstract question of the right of *mare clausum*. I do not conceive it to be applicable to the present case.

Here is a valuable fishery, and a large and, if properly managed, permanent industry, the property of the nations on whose shores it is carried on. It is proposed by the colony of a foreign nation, in defiance of the joint remonstrance of all the countries interested, to destroy this business by the indiscriminate slaughter and extermination of the animals in question, in the open neighboring sea, during the period of gestation, when the common dictates of humanity ought to protect them, were there no interest at all involved. And it is suggested that we are prevented from defending ourselves against such depredations because the sea at a certain distance from the coast is free.

The same line of argument would take under its protection piracy and the slave trade when prosecuted in the open sea, or would justify one nation in destroying the commerce of another by placing dangerous obstructions and derelicts in the open sea near its coasts. There are many things that can not be allowed to be done on the open sea with impunity, and against which every sea is *mare clausum*; and the right of self-defense as to person and property prevails there as fully as elsewhere. If the fish upon the Canadian coasts could be destroyed by scattering poison in the open sea adjacent with some small profit to those engaged in it, would Canada, upon the just principles of international law, be held defenseless in such a case? Yet that process would be no more destructive, inhuman, and wanton than this.

If precedents are wanting for a defense so necessary and so proper, it is because precedents for such a course of conduct are likewise unknown. The best international law has arisen from precedents that have been established when the just occasion for them arose, undeterred by the discussion of abstract and inadequate rules.

I have, etc.,

JAMES G. BLAINE.

[Inclosure A.]

CONVENTION* BETWEEN THE UNITED STATES AND RUSSIA RELATIVE
TO NAVIGATION, FISHING, AND TRADING IN THE PACIFIC OCEAN
AND TO ESTABLISHMENTS ON THE NORTHWEST COAST.

*Concluded April 17, 1824; ratifications exchanged at Washington January 11, 1825;
proclaimed January 12, 1825.*

In the name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty the Emperor of all the Russias, wishing to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord, by means of the present convention, have named as their Plenipotentiaries to this effect, to wit:

The President of the United States of America, Henry Middleton, a citizen of said States, and their Envoy Extraordinary and Minister Plenipotentiary near his Imperial Majesty; and His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert Count of Nesselrode, actual Privy Counsellor, Member of the Council of State, Secretary of State directing the administration of Foreign Affairs, actual Chamberlain, Knight of the Order of St. Alexander Nevsky, Grand Cross of the Order of St. Wladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the Order of St. Stephen of Hungary, Knight of the Orders of the Holy Ghost and St. Michael, and Grand Cross of the Legion of Honor of France, Knight Grand Cross of the Orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Würtemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma; and Pierre de Poletica, actual Counsellor of State, Knight of the Order of St. Anne of the first class, and Grand Cross of the Order of St. Wladimir of the second;

* Translation from the original, which is in the French language. Google

Who, after having exchanged their full powers, found in good and due form have agreed upon and signed the following stipulations :

ARTICLE I.

It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the high contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

ARTICLE II.

With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander ; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the Northwest coast.

ARTICLE III.

It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude ; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ARTICLE IV.

It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

ARTICLE V.

All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article ; and the two Powers engage, reciprocally, neither to sell, nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandise, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce ; the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article by their respective citizens or subjects.

ARTICLE VI.

When this convention shall have been duly ratified by the President of the United States, with the advice and consent of the Senate, on the one part, and, on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at St. Petersburg the 17-5 April, of the year of Grace one thousand eight hundred and twenty-four.

[SEAL.]
[SEAL.]
[SEAL.]

HENRY MIDDLETON.
Le Comte CHARLES DE NESSELRODE.
PIERRE DE POLETICA.

CONVENTION BETWEEN GREAT BRITAIN AND RUSSIA.

Signed at St. Petersburg, February 28-16, 1825; presented to Parliament May 16, 1825.

In the name of the Most Holy and Undivided Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of all the Russias, being desirous of drawing still closer the ties of good understanding and friendship which unite them, by means of an agreement which may settle, upon the basis of reciprocal convenience, different points connected with the commerce, navigation, and fisheries of their subjects on the Pacific Ocean, as well as the limits of their respective possessions on the Northwest coast of America, have named Plenipotentiaries to conclude a convention for this purpose, that is to say: His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Stratford Canning, a member of his said Majesty's Most Honorable Privy Council, etc., and His Majesty the Emperor of all the Russias, the Sieur Charles Robert Count de Nesselrode, His Imperial Majesty's Privy Councillor, a member of the Council of the Empire, Secretary of State for the department of Foreign Affairs, etc., and the Sieur Pierre de Poletica, His Imperial Majesty's Councillor of State, etc. Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and signed the following articles:

I.—It is agreed that the respective subjects of the high contracting Parties shall not be troubled or molested, in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following articles.

II.—In order to prevent the right of navigating and fishing, exercised upon the ocean by the subjects of the high contracting Parties, from becoming the pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian establishment, without the permission of the Governor or Commandant; and, on the other hand, that Russian subjects shall not land, without permission, at any British establishment on the Northwest coast.

III.—The line of demarkation between the possessions of the high contracting Parties, upon the coast of the continent, and the islands of America to the Northwest, shall be drawn in the manner following:

Commencing from the southernmost point of the island called *Prince of Wales Island*, which point lies in the parallel of fifty-four degrees forty minutes, north latitude, and between the one hundred and thirty-first and the one hundred and thirty-third degree of west longitude (Meridian of Greenwich), the said line shall ascend to the north along the channel called *Portland Channel*, as far as the point of the continent where it strikes the fifty-sixth degree of north latitude; from this last-mentioned point, the line of demarkation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the one hundred and forty-first degree of west longitude (of the same meridian); and, finally, from the said point of intersection, the said meridian line of the one hundred and forty-first degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British Possessions on the continent of America to the Northwest.

IV.—With reference to the line of demarkation laid down in the preceding article it is understood:

First. That the island called *Prince of Wales Island* shall belong wholly to Russia.

Second. That wherever the summit of the mountains which extend in a direction parallel to the coast, from the fifty-sixth degree of north latitude to the point of intersection of the one hundred and forty-first degree of west longitude, shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British Possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of ten marine leagues therefrom.

V.—It is moreover agreed, that no establishment shall be formed by either of the two parties within the limits assigned by the two preceding articles to the possessions of the other; consequently, British subjects shall not form any establishment either upon the coast, or upon the border of the continent comprised within the limits of the Russian Possessions, as designated in the two preceding articles; and, in like manner, no establishment shall be formed by Russian subjects beyond the said limits.

VI.—It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean, or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean,

may cross the line of demarkation upon the line of coast described in article three of the present convention.

VII.—It is also understood, that, for the space of ten years from the signature of the present convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in article three for the purposes of fishing and of trading with the natives.

VIII.—The port of Sitka, or Novo Archangelsk, shall be open to the commerce and vessels of British subjects for the space of ten years from the date of the exchange of the ratifications of the present convention. In the event of an extension of this term of ten years being granted to any other Power, the like extension shall be granted also to Great Britain.

IX.—The above-mentioned liberty of commerce shall not apply to the trade in spirituous liquors, in fire-arms, or other arms, gunpowder or other warlike stores; the high contracting Parties reciprocally engaging not to permit the above-mentioned articles to be sold or delivered, in any manner whatever, to the natives of the country.

X.—Every British or Russian vessel navigating the Pacific Ocean, which may be compelled by storms or by accident, to take shelter in the ports of the respective Parties, shall be at liberty to refit therein, to provide itself with all necessary stores, and to put to sea again, without paying any other than port and light-house dues, which shall be the same as those paid by national vessels. In case, however, the master of such vessel should be under the necessity of disposing of a part of his merchandise in order to defray his expenses, he shall conform himself to the regulations and tariffs of the place where he may have landed.

XI.—In every case of complaint on account of an infraction of the articles of the present convention, the civil and military authorities of the high contracting Parties, without previously acting or taking any forcible measure, shall make an exact and circumstantial report of the matter to their respective courts, who engage to settle the same, in a friendly manner, and according to the principles of justice.

XII.—The present convention shall be ratified, and the ratifications shall be exchanged at London, within the space of six weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at St. Petersburg, the 28-16th day of February, in the year of our Lord one thousand eight hundred and twenty-five.

[L. s.]
[L. s.]
[L. s.]

STRATFORD CANNING.
THE COUNT DE NESSELRODE.
PIERRE DE POLETICA.

[Inclosure B.]

List of maps, with designation of waters now known as the Behring Sea, with date and place of publication.

[In these maps the waters south of Behring Sea are variously designated as the Pacific Ocean, Ocean Pacifique, Stillles Meer; the Great Ocean, Grande Mer, Grosse Ocean; the Great South Sea, Grosse Süd Sea, Mer du Süd. And they are again further divided, and the northern part designated as North Pacific Ocean, Partie du Nord de la Mer du Süd, Partie du Nord de la Grande Mer, Grand Ocean Boreäl, Nördlicher Theil des Grossen Süd Meers, Nördlicher Theil des Stillen Meers, Nördliche Stille Meers, etc. In all the maps, however, the Pacific Ocean, under one of these various titles, is designated separate from the sea.]

Description of map.	Designation of waters now known as Behring Sea.	Where published.	Date.
Accurate Charte von Nord Amerika, from the best sources.	Sea of Anadir		(*)
Map made under direction of Mikhael Gvoedef, surveyor of the Shestakof expedition in 1730.	Kamtschatskisches Meer ...	St. Petersburg....	1743
Mappe Monde, by Lowitz	Mare Andirionum	Berlin	1746
Geographical Atlas of the Russian Empire, Alexander Vostchinine.	Kamtschatka or Beaver Sea..	St. Petersburg....	1748
Carte De L'isle de Ieso, corrected to date, by Philippe Buache, academy of sciences and geographer to the king.	Mer de Kamtschatka.....	Paris	1754
Müller's map of the discoveries by the Russians on the northwest coast of America, prepared for the Imperial Academy of Sciences.	Sea of Kamtschatka.....	St. Petersburg....	1758

* Unknown.

List of maps, with designation of waters now known as the Behring Sea, etc.—Continued.

Description of map.	Designation of waters now known as Behring Sea.	Where published.	Date.
D'Auvillle's map of the western hemisphere.	Sea of Anadir	Paris	1761
Map of Hemisphere Septentrional by Count Redfern, published by Royal Academy of Sciences.	Mer Dermant	Berlin	1763
Map published in the London Magazine.	Sea of Kamtschatka	London	1764
Map by S. Bellin, engineer of the Royal Academy.	Sea of Kamtschatka	do	1766
Nouvelle Carte des decouvertes par les vaisseaux Russiens aux cotes inconnues de l'Amerique Septle; Müller.	Mer de Kamtschatka and Mer d'Anadir.	Amsterdam	1766
Jeffery's American Atlas, printed by R. Sayers and J. Bennett.	Sea of Kamtschatka and Sea of Anadir.	London	1768-72
Road map from Paris to Tobolaken	Sea of Kamtschatka	Paris	1769
Bowie's Atlas; map of the world	Sea of Anadir	London	1770
Map of the eastern part of the Russian territory, by J. Truascott.	Mare Kamtschatkiansae	St. Petersburg	1771
Map of the new northern archipelago, in J. von Staehlin Storeksburg's account of the northern archipelago lately discovered by the Russians in the seas of Kamtschatka and Anadir.	Sea of Kamtschatka and Sea of Anadir.	London	1774
Samuel Dunn's map of North America	Sea of Anadir	do	1774
Chart of Russian discoveries from the map published by the Imperial Academy of St. Petersburg (Robert Sayer, print seller), published as the act directs.	Sea of Kamtschatka	do	1775
Jeffery's atlas; chart containing part of Icy Sea and adjacent coasts of Asia and America, published 1776, according to act of Parliament, by Sayer and Bonnett.	Sea of Kamtschatka	do	1776
Jeffery's atlas; chart of the "Russian discoveries," from map published by Imperial Academy of Sciences; published by Robert Sayer, March 2, 1775.	do	do	1776
Atlas, Thomas Jeffery's (geographer to King), American; chart containing the coasts of California, New Albion, and the Russian discoveries to the north.	do	do	1776
Map in the French Encyclopedia	do	Paris	1777
Schmidt's atlas	do	do	1777
Jeffery's atlas	do	London	1778
Carte der Entdeckung gen Zivischen Siberia und America to the year 1780.	Kamtschatkische Meer	do	1780
Map of the new discoveries in the Eastern Ocean.	Kamtschatka or Beaver Sea	St. Petersburg	1781
St. Petersburg atlas	Sea of Kamtschatka	do	1782
Halbkugel der Erde, by Bode	Kamtschatka Sea	Berlin	1783
Chart of the northwest coast of America and the northeast coast of Asia, prepared by Lieut. Henry Roberts, under the immediate inspection of Captain Cook; published by William Faden.	Sea of Kamtschatka	London	1784
Map of the Empire of Russia and Tartary, by F. L. Guisefeld.	Kamtschatkische oder Biber Meer.	Nuremberg	1786
Map of discoveries made by the Russians and by Captain Cook; Alexandre Vilbrech.	Sea of Kamtschatka	St. Petersburg	1787
Dunn's atlas; map of the world.	Sea of Kamtschatka	London	1788
D'Auvillle's atlas; map of the world, with improvements, prepared for J. Harrison, as the act directs.	do	do	1788
Meares's Voyages; chart of northwest coast of America.	Sea of Kamtschatka	do	1790
Chart of the world, exhibiting all the new discoveries to the present time, with the tracts of the most distinguished navigators from the year 1700, carefully collected from the best charts, maps, voyages, etc., extant, by A. Arrowsmith, geographer, "as the act directs."	do	do	1790
Chart of the Great Ocean or South Sea, conformable to the account of the voyage of discovery of the French frigates <i>Le Boussole</i> and <i>l'Astrolabe</i> ; La Perouse.	Sea of Kamtschatka	Paris	1791

List of maps, with designation of waters now known as the Behring Sea, etc.—Continued.

Description of map.	Designation of waters now known as Behring Sea.	Where published.	Date.
Karte des Nordens von America; G. Forster.	Kamschatka Sea	Berlin	1791
Greenough's map in Wilkinson's atlas	Sea of Kamtschatka	London	1791
Map of the northeastern part of Siberia, the Frozen Sea, the Eastern Ocean, and northwestern coasts of America, indicating Billings's expedition.	Kamtschatka Sea	St. Petersburg	1791
Arrowsmith's map of the world	Sea of Kamtschatka	London	1794
Charte von America, F. L. Gulsefeld	Kamtschatkisches Meer	Nürnberg	1796
Atlas of Mathw Carey; map of the world, from the best authorities, and map of Russian Empire in Europe and Asia.	Sea of Kamtschatka	Philadelphia	1796
Chart of North America, by J. Wilkes, "as act directs."	do.....	London	1796
Halbkugel der Erde	Kamschatka Sea	Nürnberg	1797
Charte von North Amerika, by F. L. Gulsefeld.	Kamtschatkisches Meer	Nürnberg	1797
O. F. Delmarche's atlas; Mappemonde, by Robert du Vaugondy, including new discoveries of Captain Cook.	Sea of Kamtschatka	Paris	1797
La Perouse's chart of the Great Ocean or South Sea, conformable to the discoveries of the French frigates <i>La Boussole</i> and <i>L'Astrolabe</i> , published in conformity with the decree of the French National Assembly, 1791, translated and printed by J. Johnson.	do.....	London	1798
W. Heather's marine atlas	Sea of Kamtschatka	do.....	1799
Greenough's atlas; map by Vibrecht, entitled "Carte de la Cote Nord-Ouest de l'Amérique Septentrionale," and showing the discoveries of the Russians, and Portlock and Dickson.	Mer de Kamtschatka	Edinburgh	1800
Wilkinson's general atlas; a new Mercator's chart, drawn from the latest discoveries.	Sea of Kamtschatka	London	1800
Map of the world; Graberg	Bacino di Bering.	Geneva	1802
Map magazine, composed according to the latest observations of foreign navigators, corrected to 1802.	Beaver Sea or Sea of Kamtschatka.	St. Petersburg	1802
Map of "Meer von Kamtschatka," with the routes of Capt. Jos. Billings and Mart. Sauer, drawn by Fred. Gotze, to accompany report of Billings's Russian official visit to Aleutia and Alaska.	Meer von Kamtschatka	Weimar	1803
Atlas des Ganzen Erdkreises, by Christian Gottlieb Reichard.	Meer von Kamtschatka	do.....	1803
Arrowsmith's general atlas	Sea of Kamtschatka	London	1804
Map of Savrila Sarytscheff's journey in the Northeast Sea.	Sea of Kamtschatka	Leipzig	1805
Jedediah Morse's map of North America.	do.....	Boston	1805
Robert Wilkinson's general atlas; new Mercator's chart.	Sea of Kamtschatka	London	1807
Atlas of the Russian Empire, adopted by the general direction of schools.	Kamtschatka or Beaver Sea	St. Petersburg	1807
General map of the travels of Captain Golovnin.	Kamtschatka Sea	do.....	1807-9
Map in Carey's atlas	Sea of Kamtschatka	London	1808
Lieutenant Roberts's chart, improved to date.	do.....	do.....	1808
Mappemonde in atlas of Malte-Brun	Bassin de Behring	Paris	1809
Dunn's atlas	Sea of Kamtschatka	London	1810
Karte des Grossen Oceans, usually the South Sea; Sotzmann.	Kamtschatkisches Meer	Hamburg	1810
Chart von Amerika; Streits	Sea of Kamtschatka	Weimar	1810
Arrowsmith's map of North America	Sea of Kamtschatka	London	1811
Map of the world in Pinkerton's atlas	Sea of Kamtschatka	do.....	1812
Map by Lapie	Basin du Nord	Paris	1812
"Carte d'Amérique redigée apres celle d'Arrowsmith en four planches et soumise aux observations astronomiques de M. de Humboldt," by Champron.	Bassin de Behring	do.....	1813
Map of Oceanica, or the fifth part of the world, including a portion of America and the coasts of Asia, by H. Brue.	Bassin du Nord	do.....	1814
Neele's general atlas; Samuel and George Neele.	Sea of Kamtschatka	London	1814
Chart von America; Geographic Institute.	Meer von Kamtschatka	Weimar	1814

* This chart also designates the coast from Columbia River (49°) to Cape Elizabeth (60°) as the "Nord-West Kuste."

List of maps, with designation of waters now known as Behring Sea, etc.—Continued.

Description of map.	Designation of waters now known as Behring Sea.	Where published.	Date.
Map of the world, by von Krusenstern...	Meer von Kamtschatka	St. Petersburg	1815
Encyprotype de l'Amerique Septentrionale, by Brûé.	Basin du Nord	Paris	1815
Smith's general atlas.	Sea of Kamtschatka	London	1815
Allgemeinewelt charte, with voyage of Krusenstern.	Sea of Kamtschatka	do	1815
Grande Atlas Universal, edited by Ches Desray; Mappemonde, by Goujon, geographer.	Basin du Nord	Paris	1816
Atlas elementaire, by Lapie et Poirson...	Basin du Nord on de Bering.	do	1816
Amerique Septentrionale et Meridionale; Lapie.	Mer de Bering ou Bassin du Nord.	do	1817
Map in Thompson's atlas.	Sea of Kamtschatka	Edinburgh	1817
Fielding Lucas's atlas.	do	Baltimore	1817
Reichard and von Haller's German atlas.	Sea of Kamtschatka	Weimar	1818
Map in Greenough's atlas.	Sea of Kamtschatka	Edinburgh	1818
John Pinkerton's modern atlas.	do	Philadelphia	1818
Map engraved by Kirkwood & Sons.	Sea of Kamtschatka	Edinburgh	1819
Chart of the Russian and English discoveries in the North Pacific Ocean, by Capt. James Burney, F. R. S.	Sea of Kamtschatka	London	1819
Carte Generale de l'Amerique; De Lamarque.	Mer de Bering ou Bassin du Nord.	Paris	1819
Carte d'Amerique Sept'le et Merid'le; Hannon.	Basin du Nord	do	1820
Chart of Alaska, by J. K. Eyries and Malte-Brun.	Behring Sea	do	1821
Chart of the Arctic Ocean and North America, by Lapie.	do	Weimar	1821
Carte Generale du Globe; Brûé.	Mehr de Behring	Paris	1821
Mappemonde; Tardieu.	Mer de Behring	do	1821
Atlas of La Voygne; M. Carey.	Sea of Kamtschatka	Philadelphia	1821
Atlas Universal of A. H. Brûé.	Mer de Bering	Paris	1822
Mappemonde; Herrison.	Mer de Behring	do	1823
Map to illustrate the voyage of Kotzebue.	Sea of Kamtschatka	St. Petersburg	1823
Fielding Lucas's Atlas.	do	Philadelphia	1823
do.	do	Baltimore	1823
Amerique Septentrionale; Lapie.	Mer de Behring	Paris	1824
Atlas Classique et Universel, by M. Lapie.	Mer de Behring ou Bassin du Nord.	Paris	1824
Anthony Finley's Atlas.	Sea of Kamtschatka	Philadelphia	1824
Atlas of Buchon; cartes des Possessions Russes.	Basin du Nord	Paris	1825
Map in Butler's Atlas.	Sea of Kamtschatka	London	1825
Atlas Historico de Le Sage.	Mer de Bering	Paris	1829

[Inclosure C.]

Section 4 of "An act for regulating the intercourse with the island of St. Helena during the time Napoleon Bonaparte shall be detained there, and for indemnifying persons in the cases therein mentioned (11th April, 1816)."

SECTION 4. *And be it further enacted* That it shall and may be lawful for the governor, or, in his absence, the deputy-governor of the said island of St. Helena, by all necessary ways and means, to hinder and prevent any ship, vessel or boat from repairing to, trading, or touching at said island, or having any communication with the same, and to hinder and prevent any person or persons from landing upon the said island from such ship, vessel or boats and to seize and detain all and every person and persons that shall land upon the said island from the same; and all such ships, vessels or boats (except as above excepted) as shall repair to, or touch at the said island, or shall be found hovering within 8 leagues of the coast thereof, and which shall or may belong, in the whole or in part, to any subject or subjects of His Majesty, or to any person or persons owing allegiance to His Majesty, shall and are hereby declared to be forfeited to His Majesty, and shall and may be seized and detained, and brought to England, and shall and may be prosecuted to condemnation by His Majesty's attorney-general, in any of His Majesty's courts of record at Westminster, in such manner and form as any ship, vessel or boat may be seized, detained or prosecuted for any breach or violation of the navigation or revenue laws of this country; and the offense for which such ship, vessel or boat shall be proceeded against shall and may be laid and charged to have been done and committed in the county of Middlesex; and if any ship, vessel or boat, not belonging in the whole or in part to

any person or persons the subject or subjects of or owing allegiance to His Majesty, his heirs and successors, shall repair to or trade or touch at the said island of St. Helena, or shall be found hovering within 8 leagues of the coast thereof, and shall not depart from the said island or the coast thereof when and so soon as the master or other person having the charge and command thereof shall be ordered so to do by the governor or lieutenant-governor of the said island for the time being, or by the commander of His Majesty's naval or military force stationed at or off the said island for the time being, (unless in case of unavoidable necessity or distress of weather), such ship or vessel shall be deemed forfeited, and shall and may be seized and detained and prosecuted in the same manner as is hereinbefore enacted as to ships, vessels or boats of or belonging to any subject or subjects of His Majesty.

GREECE.

Mr. Snowden to Mr. Blaine.

No. 23.]

LEGATION OF THE UNITED STATES,
Athens, January 24, 1890. (Received February 15.)

SIR: I have the honor to inform you that in an interview with the prime minister this a. m. he informed me that the views I had the honor to present in relation to a protocol authorizing joint stock companies incorporated in the United States and Greece to enjoy all the rights and privileges granted to the citizens and subjects of each had been duly considered by himself and the minister of foreign affairs, and he was happy to state that as a consequence the agreement between the two countries would be executed by the Hellenic Government within a few days. He was kind enough to say, further, that whatever objection there might have been to extending the agreement had either been entirely removed by my presentation of the case or at least so much modified as to render it impossible to refuse, to the always friendly Government of the United States, what had been granted to other countries. I hope to be able to forward the protocol duly executed within a few days. This result of the negotiations is especially gratifying as at the present time two large American insurance companies, the Equitable and New York Life, are anxiously seeking permission to enter Greece.

I have, etc.,

A. LOUDON SNOWDEN.

Mr. Snowden to Mr. Blaine.

No. 28.]

LEGATION OF THE UNITED STATES,
Athens, February 14, 1890. (Received March 4.)

SIR: I have the honor to inclose a protocol of conference held at Athens on the 10th day of February, 1890, between His Excellency Stephen Dragoumis, minister of foreign affairs for the Hellenic Government, and the minister of the United States of America. In this conference and declaration it was reciprocally understood and agreed that joint stock companies and other associations—commercial, industrial, and financial—constituted in conformity with the laws in force in Greece and the United States, may exercise in the territory of the other the rights and privileges of subjects and citizens of the two countries under article I of the treaty of commerce and navigation concluded between the two Governments in London on the 10th day of December, 1837, including the right of appearing before tribunals for the purpose of bringing an action or of defending themselves, with the sole condition that in exercising these rights they conform to the laws of Greece and of the United States and the several States.

In this mutual agreement and declaration as to the construction to be placed upon the first article of the treaty of 1837 as to joint stock companies, I believe all that was desired by our Government has been accomplished, and I trust that the action taken may meet the approval of the Department.

As several corporations and many citizens from all parts of the United States have expressed to this legation a desire to avail themselves of the privileges granted or conferred by this agreement, I would respectfully submit that the result reached have wide circulation through the Associated Press, as the best means of communicating the information to those interested.

I have, etc.,

A. LOUDON SNOWDEN.

[Inclosure in No. 28.]

PROTOCOL EXPLANATORY OF THE SCOPE AND EFFECT OF ARTICLE I OF THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND GREECE OF DECEMBER 10-22, 1837.

Protocol of a conference held at Athens on the 30th day of January 1890 between the Honorable A. Loudon Snowden, Minister Resident of the United States of America and His Excellency Stephen Dragoumis, Minister for Foreign Affairs of His Majesty the King of the Hellenes.

In view of the desire of the Government of the United States and of that of His Hellenic Majesty to effect a reciprocal understanding in regard to the rights and remedies of associations organized under the laws of one of the countries in the territories of the other, the minister of the United States declares that joint stock companies and other associations—commercial, industrial, and financial—constituted in conformity with the laws in force in Greece may exercise in the United States the rights and privileges of subjects of Greece under article I of the treaty of commerce and navigation between the Government of the United States and that of His Hellenic Majesty, concluded in London on the 10th-22d of December 1837, including the right of appearing before tribunals for the purpose of bringing an action or of defending themselves, with the sole condition that in exercising these rights they always conform to the laws and customs existing in the United States and the several States.

The Hellenic minister for foreign affairs declares on his part, reciprocally, that similar rights and privileges shall be enjoyed by corporations of the United States in Greece, whether now or heretofore organized, or to be created in the future, provided they likewise conform to the laws and customs of Greece.

In testimony of which we have interchangeably signed this protocol at Athens on

the 30th of January, 1890.
10th February

A. LOUDON SNOWDEN. [SEAL.]
E. DRAGOUMIS. [SEAL.]

[Appendix]

Article I of the Treaty of 1837.

The citizens and subjects of each of the two High Contracting Parties may, with all security for their persons, vessels, and cargoes, freely enter the ports, places, and rivers of the territories of the other, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories; to rent and occupy houses and warehouses for their commerce, and they shall enjoy, generally, the most entire security and protection in their mercantile transactions, on conditions of their submitting to the laws and ordinances of the respective countries.

Mr. Blaine to Mr. Snowden.

No. 30.]

DEPARTMENT OF STATE,
Washington, March 21, 1890.

SIR: The protocol explanatory of the scope and effect of article I of the treaty between the United States of America and Greece of December 10-22, 1837, which accompanied your dispatch No. 28 of the 4th ultimo, has been received. The Department has approved the protocol in question and printed the same for the information of the public.

I am, etc.,

JAMES G. BLAINE.

Mr. Wharton to Mr. Snowden.

No. 40.]

DEPARTMENT OF STATE,
Washington, September 18, 1890.

SIR: I herewith transmit copy of a dispatch No. 294 of the 1st instant, from the United States consul at Patras, in relation to the subjection of Emmanuel C. Catechi, an American citizen, to military service in the army of Greece.

The facts of the case are fully and clearly detailed by Mr. Woodley, the United States consular agent at Corfu, in his report to Mr. Hancock. For present convenience they may be briefly summarized.

Emmanuel C. Catechi was born in the island of Merlera, Corfu, on or about March 15, 1858. He came to this country in 1872, when 14 years old. He was naturalized in California on the 16th of April, 1879, being then 21 years old. He visited Corfu in 1885, provided with a passport as a citizen of the United States, which was issued to him by the Department November 17, 1884. A few months after his return thither he was conscripted for military service, his name being found in the local conscription list; but on his alien citizenship being shown he was released. In 1886 he was again conscripted, and, on repeated proof of his American citizenship, again released. He thereupon petitioned to have his name stricken from the conscription list. Judicial proceedings to that end were had, resulting in the imposition of 8 days' imprisonment and costs on the charge of changing his citizenship without prior permission of the Government of Greece. He then remained unmolested until May, 1890, when he was again arrested and forced to enter the military service. The consular agent at Corfu intervened, producing proofs of Catechi's citizenship, but the local authorities, finding, as they alleged, his name still on the conscription list, referred the case to Athens for instructions; and pending action thereon, Catechi is still held to service. It would seem that the identity of Emmanuel C. Catechi is confounded with that of Emmanuel A. Catechi, a delinquent conscript, of whose status this Department is not informed. Without raising, at present, the question as to the liability of Catechi to punishment for changing his allegiance without permission (a doctrine against which this Government is ever disposed to expostulate), it is clear that in the case before us the court of Greece, administering Greek law, adjudged his liability in a process brought before it at the voluntary suit of Catechi himself, and that he did, in fact, submit to the judgment and extinguish the penalty. The purpose of his suit was to cause his name to be expunged from the conscription list, thus relieving him from further call. Similar proceedings are often reported to this Department

under French law, the result being a judgment that the party forfeits French citizenship, and thereby becomes exempt from liability to military service. The case in Greece is presumed to follow the same rule. The reason and equity of the judicial proceeding under which Catechi was punished in 1885 would not be apparent if his subjection to military duty survived unaltered and his name remained on the conscription list.

Mr. Woodley, however, asserts that Emmanuel C. Catechi's name has been, in fact, "already erased from the original catalogue of his district."

Without, therefore, undertaking to suggest that the case may be one of mistaken identity, and that this unfortunate man may be found to have been held to perform the service due from the delinquent Emmanuel A. Catechi, it is proper to instruct you to forthwith address the minister for foreign affairs of Greece, asking the immediate release of Emmanuel C. Catechi from military service on the grounds of his American citizenship and of his legal exemption under the judgment of 1885; and that steps be taken to prevent his further molestation on this ground.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure in No. 40.]

Mr. Hancock to Mr. Wharton.

No. 294.]

CONSULATE OF THE UNITED STATES,
Patras, September 1, 1890. (Received September 15.)

SIR: I have the honor to transmit you herewith copy of a dispatch I have received from Mr. Thomas Woodley, United States consular agent at Corfu, relative to the case of a certain Emmanuel C. Catechi, a native of the islet of Merlera, near the island of Corfu, and belonging to that district, who emigrated to the United States in 1872 and became a citizen of the United States, as per act of naturalization of fourth district court of State of California, in and for the city and county of San Francisco (No. 225, B. 49, 16 April, 1879), and who returned to Corfu in 1885, where he has since lived, and, as you will see from the consular agent's dispatch, has on several occasions claimed his protection as an American citizen. He has now, however, been compelled to serve as a soldier, and, although the consular agent has represented the case to the local authorities, is still retained as such, and the consular agent now begs me, through the legation, to take the necessary steps to have him released from military service. As the minister resident is at present absent, I beg you will instruct me what steps, if any, I am to take in the matter.

I am, etc.,

E. HANCOCK.

[Inclosure.]

Mr. Woodley to Mr. Hancock.

No. 223.]

CONSULAR AGENCY OF THE UNITED STATES,
Corfu, August 29, 1890.

SIR: I have the honor to acknowledge receipt of your dispatches Nos. 811 and 812, dated August 25, and to bring to your knowledge that Mr. Emmanuel C. Catechi, a native of the island of Merlera, in the district of Corfu, left for America in 1872, when only 14 years of age, and established himself in California. After having resided there 7 years he made his application to obtain American citizenship, which he obtained on the 16th of April, 1879, as proved by the inclosed act of naturalization, on which day he had completed the 21 years of his age.

In 1885 he returned to Corfu, and after a few months had elapsed from his return the Greek Government, having adopted compulsory conscription of all persons up to

27 years of age, and finding Catechi's name inserted in the catalogue of the local government, he was called upon and brought by military escort from his island to enter the military service.

As soon as informed by him of this fact, I addressed a dispatch to the prefect, dated 14-26 December, 1885, in which I inclosed Catechi's passport and copy of the act of naturalization, by which I requested his exoneration from the military service.

The prefect sent the said documents to Athens, and, assuring himself of the true, naturalization, issued instructions to the competent military authorities, and said Catechi was released; but, having omitted to withdraw Catechi's name from the catalogue, in 1886 he was again required to enter the military service. I had to protest a second time, and he was again released.

Catechi then, in order to avoid any repetition of the annoyance, formally petitioned that his name should be erased from the catalogue, he being an American subject, and it was found necessary that the case should be brought before the judicial courts in consequence of his having at the time changed citizenship without first obtaining the permission from the Greek Government, as prescribed by the Greek law.

For this infringement of the law the court, taking into consideration that when Catechi left for America he was quite young and that at California there was no Greek consul to inform him of the laws of this country, sentenced Catechi to the lowest penalty of 8 days' imprisonment and to the payment of the costs, as results from the sentence No. 201 of the year 1886 and from the payment voucher of costs No. 95.

Since that time Catechi remained unmolested up to 1890, when in May of this year he was arrested, brought before the military authorities, and there forced to enter the service, although he protested, not being allowed to see or inform his consul.

As soon as I was informed of the occurrence, I immediately made my representation to the prefect and sent him—

(a) Copy of Catechi's birth certificate, by which it was evident that he was born in 1868, and consequently in 1879, when he obtained the American citizenship, he had completed his 21 years of age.

(b) Certificate from the mayor of Merlera, by which it was proved that when Catechi left Greece for America he was 14 years of age.

(c) Copy of the sentence No. 201.

(d) A certificate from his mayor, obtained in this last occasion, declaring that he was recognized by him as a naturalized American citizen, and that his name was withdrawn from the catalogue of Merlera.

The prefect, as president of the conscription committee, informed the military committee that Emmanuel C. Catechi was a naturalized American citizen, but the latter authority, finding that in the old catalogue, which they had in their office, unfortunately Catechi's name existed, and as they were in search of another Emmanuel A. Catechi, of the same place (while the American subject is Emmanuel C. Catechi), they sent the documents to the war office at Athens.

The prefect, Count A. P. Metaxa, immediately telegraphed to Athens, wrote several times on the subject, and clearly declared that Emmanuel C. Catechi was illegally kept as a soldier, but from what I can make out the Government at Athens is under some wrong impression regarding this affair.

Now, notwithstanding that the authorities have in hand all the documents relative to the American citizenship of Emmanuel C. Catechi, still they keep him unreasonably in the military ranks to the great disadvantage of his interests.

I therefore have the honor to beg of you to take the needful measures, through the United States legation at Athens, that said Catechi be exonerated from the military service once for all, as the man's name is already erased from the original catalogue of his district.

I have, etc.,

THOS. WOODLEY.

Mr. Wharton to Mr. Snowden.

No. 41.]

DEPARTMENT OF STATE,
Washington, September 19, 1890.

SIR: In connection with my instruction No. 40 of the 18th instant, relative to the case of Mr. Emmanuel O. Catechi, I have now to request that you will make discreet investigation of the circumstances of his residence in Greece, whether pointing to permanency of abode there or indicating his purpose to return within a reasonable period to the United States and discharge the duties of citizenship.

This instruction is, of course, to be regarded as independent of my No. 40, which concerns Mr. Catechi as a naturalized citizen of the United States and treats of his rights as such. But as a measure of precaution for its future guidance, if needs be, the Department deems it desirable to possess all attainable facts touching the residence of a citizen of this country who contemplates a sojourn in that of his former allegiance.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Snowden to Mr. Blaine.

No. 60.]

LEGATION OF THE UNITED STATES,
Athens, October 18, 1890. (Received November 4.)

SIR: I have the honor to acknowledge the receipt of your two dispatches, Nos. 40 and 41, referring to the conscription and detention in the Greek military service of Emmanuel C. Catechi, a naturalized citizen of the United States, and to inform you that, probably owing to the absence of United States Consul Hancock from Patras, I was not promptly advised, as I should have been, of the facts in this case.

The first information I had on the subject was from a statement made by one A. J. Anagnostopoulos, a friend of Catechi, and transmitted to me through the United States consul at Athens, and which I now find, from Mr. Thomas Woodley's report, contains several unimportant errors as to dates, etc.

Immediately on receipt of this statement, which reached me on the 18th day of September, I addressed a communication to the Hellenic minister of foreign affairs, presenting all the facts then in my possession tending to sustain the claim of Catechi to the privileges of American citizenship, and upon these requested his speedy release from military service. To this communication, a copy of which is herewith inclosed, I have received no reply.

I also wrote on the same day to Mr. Thomas Woodley, United States consular agent at Corfu, requesting to be furnished with full information on this case. His reply, inclosing a copy of his original statement to Consul Hancock, has just been received from England, where he has been sojourning for some time on account of ill health.

As I am advised by Mr. Hancock that, acting under your instructions, he has presented to the Greek foreign office a full statement of the facts establishing Catechi's claim to American citizenship, and has also in this communication embodied the views of the Department as contained in dispatch No. 40, and has reiterated my request of September 18 for the immediate release of Catechi from military service, I do not deem it advisable to again communicate with the Greek Government on this subject until my return to Athens, which will be within a week or 10 days from date. Immediately on my return to Athens, if Catechi is still held to service, I shall in person present your views and demand his prompt release. As requested in dispatch No. 41, I shall make careful investigation into the circumstances of Catechi's residence in Greece, whether pointing to a permanent abode there or otherwise, and communicate the same to the Department.

I have, etc.,

A. LOUDON SNOWDEN.

[Inclosure in No. 60.]

*Mr. Snowden to Mr. Dragoumis.*LEGATION OF THE UNITED STATES,
Belgrade, September 18, 1890.

SIR: I am this moment in receipt of information to the effect that one Emmanuel C. Catechi, claiming to be a naturalized citizen of the United States of America, has been drafted into the Greek military service, and is at present detained at one of your military barracks.

It is claimed that Catechi was born in Corfu about the year 1859, and, at the age of 13, emigrated to the United States; that he resided therein for a period of about 15 years, was duly and lawfully naturalized as a citizen of the United States at San Francisco, Cal., and that on his return to Greece, some 3 years since, was duly registered as such at the United States consular agency at Corfu.

It is further claimed that on being drafted into your military service the papers establishing his rights as an American citizen were forwarded to the proper department of your Government, and that an assurance was given of his speedy release.

Owing to some cause not explained, he has been permitted to remain in military dures for a period exceeding 3 months.

I have therefore the honor, in submitting this statement, to request that Your Excellency will give early attention to this case, and as a result that the war department may very shortly issue an order restoring Catechi to his liberty.

My absence from Athens on official duty elsewhere renders it impossible for me to give to this case the personal attention which its importance demands. In this temporary absence from your capital may I not confidently rely upon your recognition of the justice of the claim I have presented by the prompt release of Catechi from your military service?

This I shall esteem as a renewed manifestation of the reciprocal feeling of good will that has so long existed between our respective Governments.

I seize this occasion, etc.,

A. LOUDON SNOWDEN.

Mr. Snowden to Mr. Blaine.

No. 67.]

LEGATION OF THE UNITED STATES,
Athens November 17, 1890. (Received December 20.)

SIR: In compliance with the request contained in your dispatch No. 41, I have made personal investigation of the circumstances of Emmanuel C. Catechi's residence in Greece. That the examination might be intelligently and discreetly made I visited Corfu, where I remained for 4 days. I learned that Catechi returned to Greece from the United States in 1885 for the purpose of visiting his parents. He was persuaded to remain with them a much longer period than was contemplated. In 1888 he married, and now has a son 14 months old. Within the last 3 years he has kept a public coffee-house, more, as he avers, for occupation than for any profit derived from the business. His father and mother are both living; the former is 65 years of age and the latter 54. Catechi has taken no part in local or other elections, conducting himself in all respects as an alien. He avers that it is his intention to return to the United States with his wife and child within a reasonable period to discharge his duties as an American citizen.

I may add that from all the information at my disposal Catechi so conducts himself as to command the respect of his neighbors. United States Consular Agent Woodley speaks of him as a man of excellent character.

I have, etc.,

A. LOUDON SNOWDEN.

Mr. Snowden to Mr. Blaine.

[Extract.]

No. 68.]

LEGATION OF THE UNITED STATES,
Athens, November 26, 1890. (Received December 20.)

SIR: I have the honor to inform you that a few days after my return to Greece I received a communication from M. Dragoumis, late minister of foreign affairs, refusing to release Emmanuel C. Catechi from the military service of Greece. The reasons assigned are given in his communication, a copy of which is herewith inclosed (No. 1). From this you will observe that he meets none of the arguments and facts submitted for his consideration, including the substance of your dispatch No. 40, which had been communicated, but contents himself with the statement that "according to existing laws in Greece the above-named (Catechi) could not change his nationality before his majority and his obtaining the authority of the Royal Government."

In addition to my note of September 18, I wrote and telegraphed to the late prime minister (Trecoupi) urging the prompt release of Catechi, to which I received no reply. The whole matter, so far as I can learn, was practically handed over to the military council, whose conclusions were accepted without further examination.

As soon as it was possible after the organization of the new Government I presented the case most fully to the new minister of foreign affairs, M. Deligeorges, and also to the prime minister, M. Deliyanni, who is minister of war. With both these I have had protracted interviews, as well as with the minister of finance, with whom I have long been on terms of personal intimacy.

As is perhaps natural, the new cabinet has some hesitation in taking up a question which was decided by its predecessor, although manifesting entire willingness to discuss the merits of the case.

On the occasion of my last interview but one with the minister of foreign affairs, when pressing upon his attention the facts of the case, with the arguments based thereon and the Hellenic law as applied thereto, he requested that I do him the kindness of restating the case and presenting therewith the arguments I had advanced in urging the release of Catechi. This statement I presented in person to-day, and after a protracted interview left the minister under the impression that the decision of the late Government will be overruled and Catechi released.

I desire, however, the instructions of the Department for guidance in the event of the refusal to release Catechi.

I have, etc.,

A. LOUDON SNOWDEN.

[Inclosure 1 in No. 68—Translation.]

Mr. Dragoumis to Mr. Snowden.

MINISTRY OF FOREIGN AFFAIRS,
Athens, October 7-19, 1890.

SIR: I received the note you did me the honor to address me from Belgrade on the 18th of last September relative to Emmanuel C. Catechi, for whom you claim exemption from military service on the ground that he is an American citizen.

Since then I have received a letter from the United States consul at Patras, in which, whilst referring to your above-mentioned note, he asserts that the identity of Emmanuel C. Catechi has been mistaken for that of a certain Emanuel A. Catechi.

I forwarded your note to the minister of war, and the reasons given by that department are so peremptory that in all justice you will see that it is impossible for me to accede to your request to exempt said Catechi from military service.

According to the existing laws in Greece, the above mentioned could not change his nationality before attaining his majority and obtaining the authorization of the Royal Government; any naturalization obtained outside of these conditions could not absolve him of the legal obligation he is under to the Hellenic laws and principally towards military service.

As to the question of mistaken identity, I have also referred the matter to the ministry of war and shall inform you of the result of the investigation.

I have, etc.,

E. DRAGOUMIS.

[Inclosure 2 in No. 68.]

Mr. Snowden to Mr. Deligeorges.

LEGATION OF THE UNITED STATES,
Athens, November 26, 1890.

SIR: I cheerfully comply with your suggestion for a restatement of the facts and arguments heretofore presented to the late Government, and those which I have had the honor on several occasions to submit to Your Excellency and to the prime minister, in relation to the case of Emmanuel C. Catechi, a citizen of the United States, conscripted and now held in the military service of Greece.

The facts in the case can be briefly stated. Emmanuel C. Catechi was born in the island of Merlera, Corfu, on the 15th day of March, 1854, and emigrated to the United States in 1872, when 14 years of age. After residing therein for a period of about 7 years, he became, in accordance with the laws, a naturalized citizen of the United States on the 16th day of April, 1879, being then over 21 years of age. He continued to reside in the United States until the year 1885, when he returned to Corfu to visit his parents. On his arrival in Greece, bearing his naturalization papers and a passport issued by the Department of State at Washington, he was duly registered as a citizen at our consular agency at Corfu.

Shortly after his return to Corfu he was conscripted for your military service, but on the establishment of his claim to American citizenship was promptly released. In 1886 he was again conscripted, his name not having been removed from the conscription list. Again he was released on the application of our consular agent at Corfu, who again established his claim to foreign citizenship. To avoid future annoyance on this score, and acting on the advice of the Numark of Corfu and United States Consular Agent Woodley, he petitioned the court to have his name removed from the conscription list. Judicial proceedings were had before your courts, which resulted in the imposition of the minimum penalty in fine and imprisonment allowed under your laws where a subject of Greece changes his allegiance without permission of your Government. In accordance with the decree of your court, he paid the fine and suffered the imprisonment, and it was clearly understood his (Catechi's) name would be stricken from the list of those subject to military conscription, and the United States consular agent at Corfu asserts that his name was, in fact, removed from the original catalogue of his district. Be that as it may, the fact remains that he was again conscripted during the month of May last and forced into the military service, where he still remains in spite of the most earnest remonstrances on the part of the representative of my Government.

On the last conscription of Catechi, as on the two previous ones, the United States consular agent at Corfu submitted to your authorities the proof of his American citizenship, and in addition a copy of the proceedings of your courts, through which Catechi had purged himself of the only offense charged against him under your laws.

The local authorities, however, continued and still continue to hold Catechi in military duress in disregard of his rights as an American citizen, in disregard of the precedents established in his own case, and of the fact that if he had committed an offense in changing his allegiance without permission—a doctrine against which my Government is ever disposed to expostulate—he had, by suffering the judicial penalty imposed by your court, purged himself and stood before your law as if permission to change his allegiance had been granted previous to his becoming an American citizen.

On learning of the conscription of Catechi, although absent from your capital on official duty elsewhere, I immediately addressed a communication to your predecessor, setting forth the facts as communicated to me, and on them requested the release of Catechi from your military service. My communication was supplemented by one from the United States consul at Patras, who in my absence, acting under direct instructions from my Government, presented in detail all the facts in the case and upon them requested the release of Catechi. To my communication of September 18, and to that of the United States consul at Patras of October 6, no reply was received until there arrived by mail at Patras on the 5th of November a communication from His Excellency the late minister of foreign affairs, dated October 19.

In his reply the late minister does not attempt to controvert any of the facts or arguments advanced for the release of Catechi, but contents himself with saying that "according to existing laws in Greece the above mentioned (Catechi) could not change his nationality before attaining his majority and obtaining the authority of the Royal Government. All naturalization obtained outside of these conditions could not absolve him of the legal obligations he is under to Hellenic laws and particularly toward the military service."

I submit to your candid judgment whether this answer meets the case as presented or is in harmony with the facts or with your own law as applied to them by your highest legal tribunal having such cases in charge.

The law requiring the royal assent to enable a Greek subject to change his nationality, to which the late minister refers, inflicts a punishment when that assent is not obtained. Is not the infliction of this punishment a clear indication that your law recognizes that a Greek subject may change his nationality without such assent? If this be not the case the assumption of foreign allegiance by a Greek subject is a nullity, requiring no attention from your Government.

It would seem, however, that the logical purpose of your law in inflicting a penalty upon a Greek subject who fails to obtain the royal assent to a transfer of allegiance is that when the legal punishment has been inflicted, the penalty is exhausted and the person paying the same placed before your law precisely in the position he would occupy if he had received the royal assent before changing his allegiance. This is the construction placed upon a similar law in France, and, if it is not a fair interpretation of your law, I fail to recognize any logical force in its provisions.

To hold, as in the case of Catechi, who has suffered the penalty imposed by your law for his becoming an American citizen without your assent, that, after suffering the penalty of his oversight or neglect, you can still demand of him military service, as if his allegiance had never been changed, appears most illogical.

If the change of allegiance on the part of a Greek subject affords to him no immunity from your military or other service on his return to Greece, why inflict punishment in addition to the service you demand of him?

Does it seem reasonable, or even possible, that your law can bear such a construction? There is another fact bearing upon this point in the case, and to which I beg to call your attention. I am informed from a reliable source that, under your penal law, where a former subject has suffered the penalty imposed for changing his nationality without the royal assent, as in the case of Catechi, he thereby loses all the civil rights enjoyed by subjects of Greece.

If this be true, upon what ground can military service be demanded where civil rights are denied? A primary principle of government is that protection and service are reciprocal. Surely, where the first is refused the latter should not be required. That your laws contemplate no such injustice I am the more convinced, not alone from the general spirit that pervades them, but especially from the perusal of two opinions given by the legal counsel of the Kingdom having special reference to cases similar to the one under consideration. One of these opinions bears directly upon the facts as presented in the case of Catechi. Both opinions are dated June 14, 1886, and numbered 16 and 17, and may be found in the "Collection of Opinions and Sentences of the Legal Council in Doubtful Administration," pages 290 and 291. Both these opinions illustrate the liberality that pervades your laws. I shall, however, content myself by quoting but one, No. 17, which most singularly and fully covers the case under consideration. This opinion was delivered upon the appeal of A to hold S to military service so that A might be released therefrom. The case, as stated, was "whether the acquirer of a foreign allegiance is regarded as a foreigner if he was a minor when he asked permission therefor." The opinion of the legal council is as follows:

"Whereas, since the appellant, citizen A, does not dispute that conscript S, against whom the appeal is taken, had, before his conscription, obtained a foreign citizenship and is regarded now as a foreigner; and

"Whereas it is immaterial whether he was under age when he asked for the Hellenic Government's permission:

"Therefore, because he was able, even without such permission, to change his nationality, subject only to the penalty prescribed in the penal laws, the essential question is whether he legally acquired the foreign allegiance according to the laws of that foreign state, which is not disputed in the present case.

"Accordingly the court denies the appeal of A."

It will be seen from this opinion that your highest court decides that a minor can, without the royal assent, change his nationality, subject only to the penalty prescribed in the penal laws.

On this vital point the opinion fully covers the case of Emmanuel C. Catechi. He emigrated during his minority and became an American citizen without the royal assent, but on his return to Greece, being subject only to the penalty prescribed in the penal laws, he suffered the punishment, thereby exhausted the penalty, and is

no longer amenable to Greek law as a subject but as an alien. It must logically follow that he was unlawfully conscripted and is now held in your military service in violation of his rights as an American citizen and in violation of your own laws as expounded by your highest judicial tribunal having cognizance in such cases.

The proofs that Catechi was naturalized as an American citizen in accordance with the law of the United States, to which he claims allegiance, are conclusive and have not been disputed. You will find them on file in your office. They include a copy of his naturalization papers issued by the authority of the United States and a passport based thereon issued by the State Department at Washington.

In referring to another point to which I had the honor to allude in our personal discussion of this case, I beg to say that I do not do so for the purpose of strengthening the case under consideration, which requires nothing further in fact or in law to effect the immediate release of Catechi from your military service. It is nevertheless an interesting point to consider that Catechi was not born a subject of Greece, but at a period when the Ionian Islands were under British rule, and, further, that before he had arrived either at manhood or at the age at which conscription is authorized, he removed to the United States, and, after remaining there for the period required by our laws, became a naturalized American citizen. The transfer of the Ionian Islands to Greece by Great Britain took place when Catechi was but 4 years old, and, although there is no reference in the text of the treaty of transfer as to the future status of the inhabitants of these islands, it must be gravely doubted whether a child born as a citizen or subject of a country can have the birthright of nationality taken away when as an infant he is unable legally to assent or dissent. It should be remembered that Catechi, at the earliest lawful period after his emigration to the United States, became an American citizen, which as an English-born subject he had a lawful right to become under treaty stipulations between Great Britain and the United States. I submit that in this he committed no offense against the laws of any country to which he held lawful or natural allegiance.

Passing from this point, it must not be forgotten that Catechi left Greece before the age at which, even if a subject of Greece, he could be called to perform military service. He did not leave your country to evade any duty, but as a youth he departed from the land of his birth to find a home elsewhere, leaving no obligation unsatisfied.

All the facts and circumstances surrounding this case, and the spirit of your laws as applied to them, make earnest appeal for the prompt release of Catechi, who has been permitted to remain too long in the service of a Government to which he holds no allegiance, and to which he is made to render an unwilling and unnatural service. I therefore, on behalf of my Government, renew the request for the immediate release of Catechi from your military service on the ground of his American citizenship and of his legal exemption under the judgment of 1836, and that steps be taken to prevent his future molestation on this ground.

I seize, etc.,

A. LOUDON SNOWDEN.

Mr. Snowden to Mr. Blaine.

No. 71.]

LEGATION OF THE UNITED STATES,

Athens, December 17, 1890. (Received January 5, 1891.)

SIR: I have the honor to communicate to the Department that the minister of foreign affairs, Mr. Deligeorges, whilst dining at my house last evening took advantage of the opportunity to say that after a careful perusal of my last communication he was satisfied that I had clearly demonstrated the claim of Emmanuel C. Catechi to American citizenship, and that he had communicated his views to the minister of war, requesting that Catechi be released from the military service of Greece. I visited the war department this morning and had an interview with the prime minister, who is minister of war, and received assurances that he would give immediate attention to the subject and communicate the conclusion reached through the foreign office.

As soon as Catechi is released from military service I shall hasten to notify the Department.

I have, etc.,

A. LOUDON SNOWDEN.

Mr. Snowden to Mr. Blaine.

No. 73.]

LEGATION OF THE UNITED STATES,
Athens, December 25, 1890.

SIR: I have the honor to inform you that I am at this moment in receipt of a communication from the minister of foreign relations, stating that the minister of war has, in conformity with his request, issued orders for the immediate release of Emmanuel C. Oatechi from the Greek military service. Since my last dispatch on the subject I have had two interviews with the minister of war urging prompt action.

I have conveyed to the minister of foreign affairs an expression of my appreciation of the careful and intelligent consideration he has given to the case, as well as for the action taken.

We have occasion for congratulation on the result attained, involving not only the release of a fellow-citizen from a forced service to a foreign State, but the establishment of a most valuable precedent, should similar cases require the intervention of our Government.

I have, etc.,

A. LOUDON SNOWDEN.

HAITI.

Mr. Douglass to Mr. Blaine.

No. 31.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, January 17, 1890. (Received January 31.)

SIR: I have the honor to inform you that an important election has been in progress here since the 10th instant and is now nearly finished. The election machinery under the laws and usage of Haiti is extremely cumbersome and complicated, and a period of 15 days is allowed for completing the voting.

The present is the first general election for members of the Legislative Assembly since the organization of the Government under President Hyppolite.

The returns show that the voting has been in favor of the Government, and that a majority of the Assembly will support its measures.

The proceedings appear to have been characterized by considerable disorder and violence in some quarters, but not more than occur in some parts of our own country at elections. No matter what party is in power here, the administration is usually charged with the exercise of improper and undue influences to defeat the popular will. The present administration has not escaped this common reproach.

The presence of soldiers in uniform at the polls has been complained of as having a tendency to intimidate the voters. However this may be, since many citizens are on duty as soldiers, they have been compelled to appear at the polls in uniform or not to vote at all.

In the main, I think that the election has been fair, and that the result reached is in favor of the stability of the Government and of the peace of the country.

I am, etc.,

FREDERICK DOUGLASS.

Mr. Douglass to Mr. Blaine.

No. 45.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, March 13, 1890. (Received March 26.)

SIR: Article 2 of President Hyppolite's amnesty proclamation, a copy of which I had the honor to transmit to you under cover of my dispatch No. 14 of the 18th of November last, states that "the individuals accused of murder, of incendiarism, and of other non-political offenses" were not included in the amnesty and would have to answer before competent tribunals.

Nevertheless, several persons, mostly underofficers of small repute, whom public opinion designated as having been concerned in common law offenses under the *Légitime* administration, hastened to return to the country. But public clamor rose against them to such an extent that they finally took alarm and ran into the foreign legations or con-

sulates, mostly into that of France, where they still are, probably secure from arrest, awaiting an opportunity to embark for foreign lands. None of these men seem to be of political importance.

A notable exception to their case, however, is that of General Boisrond Canal, ex-President of the Republic, who is also in refuge. Although public clamor apparently holds him responsible for some of the evils that have come upon the country since the overthrow of President Salomon, yet there do not appear to be any specified charges against him, as the Government sent a passport in regular form to him at the British consulate, where he still is, awaiting a steamer to take him to the neighboring island of Jamaica.

The public does not manifest much concern over the matter of these refugees, of whom there are, I judge, less than a dozen. I suspect there is a feeling of relief at the prospect of their early departure from the country.

On the 7th instant the minister of foreign affairs, Mr. Firmin, addressed me a note (inclosure No. 1) stating that the Government had been informed that "many individuals" of the class already referred to were in refuge in the legations or consulates, and asking me for a list of such as might be here.

I promptly responded (inclosure No. 2) to Mr. Firmin, assuring him that no refugees were here and that no one had applied for refuge under my flag.

I am, etc.,

FREDERICK DOUGLASS.

[Inclosure 1 in No. 45.—Translation.]

Mr. Firmin to Mr. Douglass.

BUREAU OF FOREIGN AFFAIRS,
Port-au-Prince, March 7, 1890.

MR. MINISTER: The Government is informed that many persons are at this moment refugees in the legations or consulates established in this city, because the law pursues (*la justice recherche*) those whom public clamor has denounced as having committed common law crimes and misdemeanors during the course of the last civil strife in the country.

If this information is correct, I pray you to be pleased to furnish me with a list of the persons to whom you have accorded the protection of your flag.

Be pleased to accept, etc.,

A. FIRMIN,
Secretary of State.

[Inclosure 2 in No. 45.]

Mr. Douglass to Mr. Firmin.

LEGATION OF THE UNITED STATES,
Port-au-Prince, March 7, 1890.

SIR: I have the honor to acknowledge the receipt of your note of this date, in which you state to me that the Government is informed that many individuals are refugees in the legations or consulates in this city, because the courts are seeking for those whom public clamor has denounced as having committed offenses against the common law during the last civil strife in the country, and in which you ask me, in case the Government's information on the subject be correct, to furnish you with a list of such of these persons as I have received under my flag.

In response to your note, I am happy to state to you that no person or persons whatsoever are in refuge under the flag of this legation, and that no person has applied to me for such refuge.

Be pleased to accept, etc.,

FREDERICK DOUGLASS.

Mr. Blaine to Mr. Douglass.

No. 38.]

DEPARTMENT OF STATE,
Washington, March 27, 1890.

SIR: Your dispatch No. 45 of the 13th instant, in relation to refugees in foreign legations and consulates in Haiti, has been received.

So far as the general question of asylum is concerned, there appears to be no occasion to add to the Department's instructions on this subject heretofore. In the particular instance reported by your No. 45, it is considered fortunate that you found it convenient to answer Mr. Firmin's note as you did, assuring him that no refugees were with you, and that no one had applied to you for asylum. This negative reply in no wise prejudices your course under the Department's previous instructions. Your competency to furnish, at the request of the minister of foreign affairs, a list of fugitives under your protection charged with offenses against the common law during the last civil strife in the country and not covered by the amnesty of November 15, 1889, is not apparent. It would involve the exercise on your part of a discrimination or judicial function not pertaining to your position as the representative of this Government; for it is not at all clear that, even if it were proper for you to furnish such a list, you would find it practicable to ascertain justly who might and who might not be excluded from benefits of the amnesty in question, or, for that matter, any other amnesty or discriminative provision of defense.

I am, etc.,

JAMES G. BLAINE.

Mr. Douglass to Mr. Blaine.

No. 59.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, April 25, 1890. (Received May 5.)

SIR: Although the date fixed by the constitution of Haiti for the opening of the annual sessions of the Corps Législatif or National Congress, which is composed of two houses, is the first Monday in April, yet it was only on the 18th instant that the lower house or chamber of deputies, all the members of which were recently elected by the people, found a quorum of its ninety-five members present and succeeded in organizing, while as yet the senators are not even elected.

The senate having been dissolved by the revolution which overthrew President Salomon in August, 1888, that entire body must now, for the first time in several years, be elected *ab initio*. It is composed of thirty-nine members. They are chosen by the chamber of deputies from two lists of candidates submitted to it, one by the executive and the other by a sort of electoral college (*assemblée électorale*) named directly by the people for that purpose.

The first duty of the deputies is, therefore, to elect the senators. Inasmuch as a clear majority of the chamber is friendly to the executive, the probability is that a majority of the senate also will be selected from those equally friendly to the executive branch of the new Government.

It seems to be expected that the senate will be formed within the coming week, and that as soon thereafter as it can complete its organization the two houses will meet in national assembly to receive the President's message.

There appears to be quite an interest felt in this forthcoming message and in the attitude which it and the newly elected Corps Législatif will assume toward the obligations created by the fallen government of General Légitime, toward public improvements, toward some relief of the general financial situation, and toward supplying the need of money in the form of small coins, or paper currency of the same value as these coins, a need which has become so general here as to touch all classes of the community.

From the probable complexion of the legislature and from the present outlook, I am led to believe, and, in fact, there is every indication, that the Government of General Hyppolite is still strong, and that the prospect for a period of peace and reasonable prosperity is encouraging, notwithstanding the rumblings of discontent which seem never to cease here, and which I presume to be in this Republic simply what in some other countries takes the form of outspoken, fearless criticism and sometimes vigorous condemnation of the party in power for the time being.

President Hyppolite's tour through the south appears to have been a sort of triumphal march. He was absent from the capital 22 days, during which time he visited some places in the interior which had never before been visited by a chief of state. I hear from all sides that it is considered that His Excellency's tour has added to his popularity and has thus contributed to the era of good feeling and to the prospects of peace and tranquillity.

I am, etc.,

FREDERICK DOUGLASS.

Mr. Blaine to Mr. Douglass.

No. 48.]

DEPARTMENT OF STATE,
Washington, May 8, 1890.

SIR: I have received your No. 59 of the 25th ultimo, concerning political affairs in Haiti, stating that the outlook is favorable to peace.

I am pleased to learn that the course of orderly and constitutional government in Haiti is continuing with good prospect of permanence.

I am, etc.,

JAMES G. BLAINE.

Mr. Douglass to Mr. Blaine.

No. 69.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, May 28, 1890. (Received June 10.)

SIR: I have the honor to inform you that the complete inauguration of this Government, under the presidency of Gen. L. M. Florvil Hyppolite, for authoritative legislative work, took place here at 10 o'clock on the morning of Monday, the 26th instant, with marked civil, military, and ceremonial observances.

It was the formal opening of the nineteenth legislature of Haiti. That body consists of a senate and a lower house, called the chamber of deputies. The composition and manner of election of the two houses are explained in my No. 59 of the 25th ultimo. When, as on this occasion, the two houses meet together, they are called the national assembly, and the president of the senate is the presiding officer.

The proceedings of the 26th instant were in all respects creditable to the intelligence and patriotism of the Haitian people and were distinguished by the order, dignity, and decorum befitting the solemn duties which the condition of the country calls upon its lawmakers to discharge wisely.

Special invitations to assist at the ceremonies were addressed to the diplomatic and consular corps, to the clergy, and to many other distinguished persons, and places were reserved for them in the crowded chamber of deputies, where the proceedings took place. To these reserved places we were all conducted by gentlemanly ushers.

At the appointed hour the thunder of cannon, the inspiring notes of martial music, and a general movement of the assembled multitude announced the approach of the President of Haiti. On his entrance into the chamber every member of the national assembly rose in token of loyalty and respect. He was conducted to his seat, which was on a raised platform adorned with flags and flowers. The presiding officer, Dr. A. M. Aubry, then delivered an admirable and eloquent but brief address, to which His Excellency responded briefly in a calm and serious tone. His remarks were characterized by wise and patriotic sentiments.

At the close of these addresses the chamber resounded with the huzzas, "*Vive le Président Hyppolite ! Vive la Constitution ! Vive la République d'Haiti !*"

At the conclusion of the ceremony the diplomatic and consular corps, the clergy, and the other invited guests were conducted, with His Excellency, to an upper room, where wine was served and President Hyppolite's health was drunk. Very brief remarks were here made by the president of the senate in behalf of the Corps Législatif, by a distinguished member of the clergy for that body, and by myself in my quality of dean of the diplomatic and consular corps. To each of these His Excellency courteously and appropriately responded. Thereupon the ceremonies and proceedings of the occasion, which altogether had occupied only a little over an hour, were ended.

The legislature being now fully organized, it is probable that President Hyppolite's message to that body will soon be forthcoming.

I am, etc.,

FREDERICK DOUGLASS.

Mr. Douglass to Mr. Blaine.

[Extract.]

No. 70.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, May 28, 1890. (Received June 10.)

SIR: Late in the afternoon of the 22d instant Mr. Sultzer Wart, a Swiss banker or merchant who has resided in Port-au-Prince since 1874, called at my house to inform me that he had just then received a verbal order from the Government of Haiti to leave the country within 24 hours.

By reason of instruction which I find in the legation concerning the protection of Swiss citizens in Haiti, I felt that Mr. Sultzer Wart was entitled to the benefit of my good offices.

I accordingly interested myself in his behalf. I went immediately to the minister of foreign affairs, Mr. Firmin, to learn the nature of the charge against Mr. Sultzer Wart and the proofs on which they rested, and to secure, if possible, the recall of the verbal order expelling him,

or, if that could not be done, to obtain a delay in its enforcement which would permit him to arrange his personal and business affairs.

I found Mr. Firmin, as usual, cordial in manner and willing to listen to me. He said that the charge was that Mr. Sultzer Wart was conspiring against the stability of the Government, and that there were ample proofs to sustain the charge.

Mr. Firmin was inflexible as to the carrying out of the order of expulsion, but, in deference to my wishes, he consented to grant an extension of a few days in order that Mr. Sultzer Wart might close up his affairs.

Mr. Sultzer Wart went this morning quietly on board a German steamer, which will leave him at Colon. There were embarked on the same steamer two other persons who had each received from the Government a written order of expulsion, one of them being Dr. Robert Love, a British subject, and the other, Gen. François Manigat, who was for several years minister of the interior under the Salomon administration, and who is spoken of in my predecessor's dispatches Nos. 185 and 186 of June 6 and 11, 1888.

I am, etc.,

FREDERICK DOUGLASS.

Mr. Douglass to Mr. Blaine.

No. 71.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, May 30, 1890. (Received June 10.)

SIR: Referring to my dispatch No. 70 of the 28th instant, in which it is stated that Mr. Sultzer Wart had been expelled from Haiti, I have the honor to send to you herewith inclosed from *Le Moniteur*, the official journal of this Government, of that date, but only just now received, an extract, with a translation, containing the formal order for expulsion.

It will be observed that the order is dated the 26 th instant; that it is signed by the secretary of state for the interior and the police general on the formal approval of the cabinet; and that it affirms in its preamble that "international law confers on every independent state the right to expel from its territory foreigners whose conduct is a danger to tranquillity and public order."

I am, etc.,

FREDERICK DOUGLASS.

[Inclosure in No. 71.—Translation.]

Extract from Le Moniteur of May 28, 1890.

DEPARTMENT OF THE INTERIOR AND OF THE POLICE GENERAL.

Whereas international law confers on every independent state the right to expel from its territory foreigners whose conduct is a danger to tranquillity and public order; Considering that Messieurs J. R. Love and Sultzer Wart have intermeddled in the questions of our domestic politics in stirring up, the one by his writings and the other by active propagandism, party passions so often baleful to this country;

On the advice of the council of the secretaries of state, (it is) decreed:

ARTICLE 1. Messieurs J. R. Love and Sultzer Wart are expelled from the territory of the Republic of Haiti and will be embarked on the first vessel leaving for a foreign country.

ART. 2. The chief of the administrative police of the capital is charged with the execution of the present decree.

Done at Port-au-Prince, at the department of the interior and of the police general, the 26th of May, 1890, the eighty-seventh year of independence.

ST. M. DUPUY,
Secretary of State for the Interior and the Police General.

Mr. Douglass to Mr. Blaine.

No. 72.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, May 30, 1890. (Received June 10.)

SIR: I have the honor to send to you herewith inclosed an extract from the official journal of this Government, *Le Moniteur*, of the 28th instant, containing a decree or order of that date by which the decree of May 24, 1888, placing the arrondissement of Port-au-Prince under martial law, is revoked. A translation of the decree is likewise inclosed.

It will be observed from the inclosed decree that Port-au-Prince and its environs were under martial law from May 24, 1888, until the 28th instant, or during 2 years and 4 days. It is thought that the restoration of the civil authorities to their full power at this time must be taken as an evidence of the confidence which the Government feels in its strength and stability, and that it will tend to allay any apprehensions that may have been occasioned by the proceedings recorded in my No. 70 of the 28th instant concerning the banishment of Sultzer Wart, J. R. Love, and François Manigat.

I am, etc.,

FREDERICK DOUGLASS.

[Inclosure in No. 72.—Translation.]

Extract from Le Moniteur of May 28, 1890.

Hyppolite, President of Haiti, in view of articles 2 and 9 of the law of April 13, 1890, concerning martial law, on the advice of the council of the secretaries of state, decrees that which follows:

ARTICLE 1. The decree of May 24, 1888, which declares martial law in the arrondissement of Port-au-Prince is and remains revoked.

ART. 2. The present decree shall be printed, published, and executed under the diligence of the secretaries of state, each in that which concerns him.

Done at the National Palace of Port-au-Prince the 28th of May, 1890, the eighty-seventh year of independence.

HYPPOLITE.

By the President:

MOMPOINT, JR.,
Secretary of War and Marine.

ST. M. DUPUY,
Secretary of the Interior and of the Police General.

CLEMENT HAENTGENS,
Secretary of Agriculture and of Public Works.

H. LE CHAUD,
Secretary of Justice and Worship.

D. S. RAMEAU,
Secretary of Public Instruction.

Mr. Blaine to Mr. Douglass.

No. 52.]

DEPARTMENT OF STATE,
Washington, June 12, 1890.

SIR: I have received your No. 70 of the 28th ultimo, reporting the expulsion from Haiti for political reasons of Mr. Sultzer Wart, a Swiss citizen, Dr. Robert Love, an English subject, and General Manigat, a Haitian. The employment of your good offices on behalf of Mr. Wart is approved.

I am, etc.,

JAMES G. BLAINE.

Mr. Douglass to Mr. Blaine.

No. 77.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, June 13, 1890. (Received June 28.)

SIR: I have the honor to invite your attention to the accompanying copies of correspondence which I have recently exchanged with the minister of foreign affairs, Mr. Firmin, in reference to the alleged presence, in March last, of two American schooners, the *Baltic* and the *Rising Sun*, in the Haitian port of Grand-Gosier, which is known not to be open to foreign commerce.

It will be seen from Mr. Firmin's note of the 7th instant (see inclosure No. 1), that he complains that, according to a report made to His Excellency President Hyppolite by the commander in chief of the Haitian navy, the two schooners were found anchored in an unopen port of the Republic, and prays me to take measures which will "prevent the renewal in the waters of the territory of Haiti of the acts of the two vessels in question." It will be seen, further, from the note that the only explanation which the masters of the schooners are represented to have made of their presence at Grand-Gosier was that they had for some time been engaged in the whale fishery in that vicinity.

They seem to have been treated by the Haitian officers with all the courtesy which they could, perhaps, have expected under the circumstances. At all events, no complaint or other representation has come to me from any person claiming ownership or interest in the two vessels, the only information that I have of the incident under consideration being that which is conveyed to me in Mr. Firmin's note.

In my response (see inclosure No. 2), made on the 10th instant to Mr. Firmin, I thought it prudent to intimate to him that there might be instances in which American vessels could properly cast anchor in an unopen port of Haiti, but at the same time to express my disapproval of the presence as described of the two schooners at Grand-Gosier, and to say to him that I will endeavor to prevent the recurrence of any incident of a similar character.

I am, etc.,

FREDERICK DOUGLASS.

[Inclosure 1 in No. 77.—Translation.]

Mr. Firmin to Mr. Douglass.

BUREAU OF FOREIGN AFFAIRS,
Port-au-Prince, June 7, 1890.

MR. MINISTER: I have the honor to inform you that, according to a report made to His Excellency the President of the Republic by Mr. H. Killick, the commander in chief of the Haitian navy, the American schooners *Baltic*, Capt. S. Emmonds Byr, and *Rising Sun*, Capt. C. A. Stevenson, were found anchored in the port of Grand-Gosier, about the end of the month of March last. Commandant Killick, surprised to see these vessels in a port not open to foreign commerce, wished to take knowledge of their papers and to inquire as to the cause of their presence in those waters. To this end he called the two captains on board the corvette *Defense* and questioned them. They declared that they had for some time been engaged in the whale fishery in the vicinity where they were.

On this declaration Commandant Killick, who was assisted during the occurrence by the commanders of the *Defense* and of the gunboat *Jacmel*, made known to these captains the dispositions of the Haitian law relative to navigation on the coasts of the country, and invited them to leave the port of Grand-Gosier and to go to one of our ports open to foreign commerce, in order to revictual according to need.

In hastening, on the invitation of the President of the Republic, to give you knowledge of this affair, I pray you, Mr. Minister, to be pleased to take such measures as you shall judge necessary to prevent the renewal, in the waters of the territory of Haiti, of the acts of the two American vessels in question.

Accept, etc.,

A. FIRMIN,
Secretary of State for Foreign Affairs.

[Inclosure 2 in No. 77.]

Mr. Douglass to Mr. Firmin.

LEGATION OF THE UNITED STATES,
Port-au-Prince, June 10, 1890.

SIR: In the note which you addressed to me on the 7th instant, and which I had the honor to receive on the 9th instant, you are pleased to inform me that, according to a report made to His Excellency the President of Haiti by Mr. H. Killick, the commander in chief of the Haitian navy, two American schooners, the *Baltic*, Capt. S. Emmonds Byr, and the *Rising Sun*, Capt. C. A. Stevenson, were, near the end of March last, found anchored in the port of Grand-Gosier, which is not open to foreign commerce; that Mr. Killick, surprised to see them there and wishing to take knowledge of their papers and to make inquiry as to the cause of their presence in those waters, called the two captains on board the Haitian corvette *Defense* and questioned them; that they declared that they had for some time been engaged in the whale fishery in that vicinity; and that thereupon Mr. Killick, who was assisted in this occurrence by the commanders of the Haitian war vessels *Defense* and *Jaomel*, made known to the captains of the schooners the law of Haiti relative to navigation on the coasts of the country, and invited them to leave the port of Grand-Gosier and go to one of the open ports of the Republic, where they could revictual according to need.

Of the occurrences thus outlined I have no other knowledge than that with which you favor me. But, inasmuch as it does not appear from your statements that the schooners referred to were "forced to seek refuge or asylum" in Grand-Gosier "through stress of weather, pursuit of pirates or enemies, or want of provisions or water," or that they had been "wrecked, stranded, or otherwise damaged on the coasts" of Haiti, or that they were in any condition that would entitle them to "the same assistance which would be due to the inhabitants of the country where" they were, their presence, as described, in a port of the Republic known not to be open to foreign commerce does not seem to be justifiable, and I shall endeavor to take such measures as may be deemed necessary and expedient to prevent a recurrence of any similar incident.

Be pleased to accept, etc.,

FREDERICK DOUGLASS.

Mr. Douglass to Mr. Blaine.

[Extract.]

No. 80.]

LEGATION OF THE UNITED STATES,
Port au-Prince, June 27, 1890. (Received July 5.)

SIR: The political situation in Haiti, which exhibited a momentary perturbation a few weeks ago in connection with the sudden expulsion of General Manigat and Messrs. Sultzer Wart and Love, speedily assumed, after that affair, even more than its usual tranquil aspect. At no time since the election of General Hyppolite has the country afforded stronger assurance of the stability of its Government than at present. If there is not perfect concord between its executive and legislative departments, which may be true, the alleged differences are not such as to cause any doubt that they will be easily composed in the spirit of patriotism and with the settled determination manifested on the part of both branches of the Government to heal as speedily as possible all the wounds left by the late revolution.

The augmentation of public confidence is seen on every hand—in the appreciation of the national currency, in the manifold projects for improving streets, roads, and wharves, and in the increasing number of private dwellings in process of erection both within and without the limits of Port-au-Prince. The sound of the hammer and the trowel is heard late and early. Soon an electric cable from Port-au-Prince will connect with the cable at the Môle St. Nicolas, and thus bring Port-au-Prince *en rapport* with the outside world.

But, perhaps, one of the best guaranties of peace, as it certainly is one of the best guaranties of prosperity, is providential, and that is a large harvest of coffee. In this respect the outlook at this writing is full of promise. The coffee plantations of Haiti have never looked better than now, and on this much hope is predicated for the country. It is not, however, to be presumed from this favorable aspect of the political and material situation that there is no language of complaint to be heard in the voices of the citizens or to be read in the columns of the newspapers.

I am, etc.,

FREDERICK DOUGLASS.

Mr. Blaine to Mr. Douglass.

No. 60.]

DEPARTMENT OF STATE,
Washington, July 2, 1890.

SIR: I have received your No. 77 of the 13th ultimo, in which you inclose a copy of a note from the Haitian minister of foreign affairs complaining of the presence of two American schooners at Grand-Gosier, a port of the Republic of Haiti not open to foreign commerce.

The general tenor of your reply, a copy of which you inclose, is approved.

If the presence of the vessels in question in a port not open to trade was not due to stress of weather or some other of the exceptional circumstances provided for in the treaty of 1864 between the United States and Haiti, and was therefore not privileged, the enforcement of the revenue laws of the latter Government would seem to be incumbent upon its authorities.

The Government of the United States and its representatives in Haiti can have no responsibility for unlawful acts of American vessels committed beyond its jurisdiction and within that of another sovereign power; our only concern is to see that any proceedings against such offenders are conducted in accordance with law and conformably with such treaty stipulations as may be in force.

I am, etc.,

JAMES G. BLAINE.

Mr. Douglass to Mr. Blaine.

No. 85.]

LEGATION OF THE UNITED STATES,
Port-au-Prince, July 9, 1890. (Received July 22.)

SIR: I have the honor to send to you herewith inclosed a translation of that part of the annual message submitted by President Hyppolite to the national assembly on the 9th ultimo, which treats of the relations of Haiti with foreign powers, together with some brief observations on other portions of that document, and I send to you also herewith two printed copies of it.

that is said in the chapter herewith sent in translation of the satisfactory and pleasant relations between the United States and Haiti can be accepted as a graceful and appreciative recognition of our really friendly dispositions toward this Republic.

The chapter is not wanting in interesting details, but it is also characterized by an intelligent and just appreciation of that which concerns the position and relations of Haiti in the family of nations, and I commend it as being worthy of an attentive perusal.

In the chapter on finance, presenting, on the whole, a hopeful view, there are full statements concerning the public debt, and there is no lack of reference to the unsatisfactory financial situation alleged to have originated and left by the *Légitime* administration.

The comparative statement near the end of the chapter, concerning the ratio between the annual payments on the public debts of different countries and their annual revenues, would be more encouraging to Haiti if the rate of taxation bore the same ratio to the wealth and population in all the states mentioned.

There was quite a desire to know exactly what position this Government would assume toward the obligations left by the *Légitime* administration. The message recognizes and urges a legislative vote to pay the so-called *Légitime* loan of \$600,000 on the ground that the value was actually paid over to the public authorities, and this appears to be the ground on which the Government has placed itself in reference to the so-called *Légitime* debts. The message speaks, moreover, of an administrative commission that was named on the entry of the Provisional Government into Port-au-Prince, and that has ever since been, and still is, at work on the classification and verification of those debts in order to be able "to indicate those which are regular and those which for one cause or another deserve to be annulled."

The succeeding chapters of the message conspicuously show an intelligent appreciation of the needs of the several other branches of the public service. It does not seem possible that this Republic, with the resources at command, can fail to advance in all that relates to the development of an independent state as long as there are at the head of affairs, as at present, men, citizens of the country, who evince so thorough an understanding of the elements that make up and sustain such a State.

I am, etc.,

FREDERICK DOUGLASS.

[Inclosure in No. 85.—Translation.]

President's annual message.

SENATORS AND DEPUTIES: The painful events that have taken place in the country have unfortunately thrown everything into confusion. During the crisis of the civil war party passion left no place for justice, for wisdom, and truth. It is thus that facts, designedly disfigured and badly interpreted, plunged us at a certain moment into the strangest confusion. Ordinarily civil troubles have a direct result upon the foreign relations of a state. They often create certain constitutional, or simply governmental, transformations, which stir up, contract, or cool down the relations with foreign powers and condemn the suffering country to a kind of international instability, which lasts until the moment when a new condition of things, being consecrated by time and strengthened by policy, comes at last to be accepted generally. For, as at present, these ordinary results of a change of government are complicated by some limited circumstances which render them more prominent.

The same confusion to which I have above alluded, had passed from the interior to the exterior of the country. The greater number of the powers friendly to our

young Republic, desirous of continuing with it the good relations which existed under General Salomon, and deceived by erroneous or interested reports (of the situation), hastened to recognize the power of General Légitime without waiting for the result of the strife begun for the triumph of right and justice. This strife ended in the downfall of the usurper, and the general, disowned by the whole Republic, was obliged to quit the soil of the mother country, which his ambition and his obstinacy had bruised and stained with blood. Such a misunderstanding created, fatally for us, a delicate situation in our international relations. Nevertheless, from the day when the Provisional Government entered the capital I have made it my duty to restore the confidence and gain the sympathy of all the foreign powers in demonstrating to them by the eloquence of facts the rectitude of my principles. I would here speak of the correct conduct and honorable attitude observed by my several corps d'armée when they came within the walls of the capital, of the moderation employed in the treatment of former enemies who hastened to become friends. Testimony of this has been given to me by all the representatives of the diplomatic corps at Port-au-Prince, and the number of the *Moniteur* which contains this flattering correspondence will always be for me the most honorable parchment.

Unanimously elected President of the Republic by the constituent assembly freely assembled at Gonaïves, I hastened to give notice of my election, according to diplomatic usage, to all the friendly governments. The United States of America immediately responded to my notification and recognized my Government. Afterwards came the Dominican Republic, Denmark, Greece, Spain, Liberia, Germany, the several Republics of Central and South America, Austria-Hungary, and lastly Portugal.

Of the nations which have important relations with Haiti, there remain only France and England that abstain from responding to my letter of notification, and seem thus not to recognize the Government which came from the sovereign vote of the national constituent assembly of the Republic. Mention must also be made of His Majesty the King of Italy, who has not yet recognized my Government.

If one wished to rest on the principles of international law, one could rationally infer from what I have just said that all diplomatic relations have ceased between my Government and those of the three nations last mentioned. But, happily, this is not at all the case.

The secretary of state for foreign affairs continues to correspond and regulate all questions which arise with the representatives of those nations. Her Britannic Majesty has had the graciousness to accord an exequatur to Mr. B. C. Carvalho, our consul-general at Kingston, on the request of Mr. Firmin, the present incumbent of the department of foreign affairs.

These considerations prove, with the opinion of the most distinguished publicists, that the international recognition necessary to a country whose duty it is not to isolate itself from the concert of civilized nations has for its object only to cause to be recognized the title of the chief of state and not his right to govern. In view of this right, the important thing will always be the national recognition, and every independent state is alone qualified to express this recognition, which is the most elevated act of its sovereignty. Therefore, the Government awaits with calmness and dignity the time when all the governments of the powers which constantly entertain relations of friendship with the Republic shall be pleased, in virtue of the courtesy which must form the basis of international relations, to respond to my letter of notification.

In short, I am justified in saying that our relations with all foreign powers are of the best.

From the installation of the Government the Republic of the United States hastened to bestow upon us with profusion every testimony of a sympathy of which the country ought to feel proud. Vice (Rear) Admiral Gherardi, having come into the harbor of Port-au-Prince with three vessels of his squadron, testified to me the desire of receiving me on board, in order, said he, to render to me all the honors which the American Navy ordinarily renders to chiefs of state, commencing with the President of the United States of America. I deferred in effect to his amiable invitation (by going on board) with all the members of the Government. It was a great satisfaction for the country to see for the first time the flag of one of the first powers of the civilized world lowered (*see baisser*) with all the prescribed ceremonial before a Haitian chief of state.

But the greatest proof of respect which the Government of the United States has given to us is, without question, the sending to Port-au-Prince in the quality of minister resident and consul-general of the Honorable Frederick Douglass, the illustrious champion of all men sprung from the African race, himself one of the most remarkable products of that race, which we represent with pride on the American continent.

With these good mutual dispositions, the Government has had no difficulties in its relations with the American legation.

The Van Bokkelen affair, for the regulation of which the Government of General Salomon had the bold idea of having recourse to the arbitration of one person and of

accepting as the arbitrator an American—that is to say, a compatriot of the claimant—has been decided against us since December 4, 1888. While the country was expecting a victory, or at least a condemnation not exceeding \$10,000, the single arbitrator deciding without recourse according to the protocol signed by Mr. Bayard, then Secretary of State of the United States, and Mr. Preston, then our minister plenipotentiary at Washington, condemned us to pay \$60,000 to the heirs and assigns of Van Bokkelen. This sum was to be paid on the 4th of December, 1889. Nevertheless, the secretary of state for foreign affairs continues a discussion (*des pourparlers*) with the American legation, and everything leads me to hope that we shall obtain a reasonable delay in which to satisfy this excessive condemnation, but without recourse to compromise.

Responding to the invitation of the American Government, the Provisional Government had sent Mr. Arthur Laforestrie, whose aptitudes are known, to represent the Republic of Haiti at the International Conference which opened at Washington in October last, but falling ill in the course of his labors, Mr. Laforestrie was obliged to return to our country in fleeing from the climate of the United States, the effect of which showed itself so prejudicial to his health in the winter season. He was replaced at the conference by our envoy extraordinary and minister plenipotentiary at Washington, the Honorable Hannibal Price. This conference adjourned on the 20th of April last in expressing a wish which has a sovereignly elevated character: the abolition of the right of conquest in the practice (or application) of American international law during the time that there shall remain in vigor a treaty of arbitration signed by the plenipotentiaries of the principal powers of the new world. This treaty, which, if it be everywhere accepted, would change the face of the world, will surely create a certain solidarity in well-being and justice among all those who shall have consented to it.

Our minister plenipotentiary has signed it. It is for you to study it and to reflect on the important consequences which it may have upon our national development in concert with the civilized nations of the new continent.

In order to extend and strengthen our relations with the great European nations, the Government judged it necessary to create two new legations, one at Berlin and one at Madrid, and to send a minister resident, instead of a chargé d'affaires, to London. In effect, German interests, and especially the German colony, not very troublesome, it is true; have taken a sufficient extension in Haiti for us to feel the need of entertaining at Berlin relations as regular as those which we entertain at Paris and at London. The same reflections must be made in regard to Madrid; if we are not engaged in grand commercial interests with Spain, the Spanish colony, represented by Cubans, is considerable in Haiti. This colony, composed of artisans and workmen, is a peaceful element from which the country can draw the greatest advantages. Moreover, Spain belongs to the great European concert, and it is well that we should have near its Government an authorized representative placed in order to lead the two countries to understand each better and to profit better from the mutual advantages which closer relations can procure.

At Berlin, as at Madrid, our ministers have been received in solemn audience, with all the ceremonial of usage in each of the courts for the reception of diplomats of their grade.

Our relations with England, while awaiting the recognition of the Government, remain absolutely cordial. Mr. Zohrab, consul-general of Her Britannic Majesty at Port-au-Prince, had opened a lively controversy with the secretary of state for foreign affairs in regard, on the one hand, to the exemption which he claimed for his landlord from paying his subscription to the water company for water furnished to his habitation, and, on the other hand, relative to the practice of the custom-house of verifying articles destined for his usage or for the use of his office, articles the free entry of which the Haitian Government has always had the courtesy to accord. His Lordship the Marquis of Salisbury, upon whose sense of justice and enlightenment the department of foreign affairs had constantly counted, relieved Mr. Zohrab from his post and charged Mr. Arthur Tweedy with the English consulate *ad interim*. The Government has only to felicitate itself in regard to the new representative of Her Britannic Majesty, whose character and proceedings are well calculated to cement the great sympathy which has always existed between the English and the Haitian peoples since the beginning of our history. We have no affair pending with the English consulate.

Our relations with France remain always on a footing of perfect accuracy. Before my arrival at the Presidency, the Count de Sesmaisons, envoy extraordinary and minister plenipotentiary of the French Republic at Port-au-Prince, had left *en congé* according to notice given at that time to the counselor charged with the department of foreign affairs. He has not returned. Mr. Victor Huttinot, consul of France at Santo Domingo, directs *ad interim* the French legation at Port-au-Prince in the quality of chargé d'affaires. Divers litigious affairs have arisen between that legation and the department of foreign affairs, notably the reclamation of the French professors engaged by the Government of General Salomon.

They have all been regulated in a satisfactory manner. "When a state does not recognize a change in the constitution of another," says an eminent French publicist, "diplomatic relations cease as in war, and the subjects of the obstinate state are recommended to the good care of a friendly or allied state; they are then protected unofficially instead of being protected officially." Nevertheless, the Government has made use of all desirable condescension in accepting the official protection which the French legation has been pleased to accord to those within the limits of its care (*à ses ressortissants*), communicating in the meantime directly with the department of foreign affairs, while France has not recognized the new order of things constitutionally established in Haiti.

There remains, however, the affair Silvie-Debrosse, upon which correspondence is still open between the minister of foreign affairs and the French legation. Here are the details of it:

Under General Salomon, just as it was found well to accept an American arbitrator to take cognizance of an American claim, so French arbitrators were accepted to take cognizance of a French claim, leaving, it seems, to the French Government the exclusive right to fix the amount of the sum to be exacted from the Haitian Government. It is thus that it was decided by the arbitrators that the Government of Haiti is to furnish to the French Government a pecuniary reparation, representing the injury inflicted upon Mr. Silvie, a French subject, by reason of a decree of the court of cassation of August 9, 1883, and that Mr. Goblet, then minister of foreign affairs of France, fixed this pecuniary reparation at 500,000 francs.

The arbitrator's decision, which arrived here during the Provisional Government of August 24, 1888, seems to have been accepted without observation, a value of 44,028.29 francs having been paid on the 500,000 francs.

The Government, not wishing in any way to begin a controversial discussion as to whether a provisional government has the quality to put a country under pledge, accepted both the arbitration and the sum fixed by Mr. Goblet. But our financial resources do not permit us to pay so large a sum in 1 or 2 years without sensibly deranging our budgetary equilibrium. Therefore, the secretary of state has requested a longer delay for the payment of the 455,971.31 francs forming the balance of the pecuniary reparation which is to be paid to Mr. Silvie. I hope that the French Government will finally feel that this debt is of a nature to lead it to use all its generosity in regard to the delay which has been requested of it.

The secretary of state for foreign affairs has also had to sustain an important correspondence with the French legation in regard to the asylum accorded to two Haitians, Messrs. Phyrinus Agnan and Horelle Monplaisir, who are under pursuit for common law crimes and whom Mr. Huttinot claims to have the right to shelter under the French flag, thus placing them beyond the reach of the laws of the country. The Government refused to permit the embarkation of these accused persons, who must still be at the French legation, because it can not be admitted that the *chargé d'affaires* has brought about a diplomatic discussion for the sole purpose of favoring the escape of the delinquents, whom he has called "his refugees." Mr. Victor Huttinot, having ceased this discussion, has referred this question to the French minister of foreign affairs. The replacing of Mr. Spuller by the Hon. Mr. Ribot may, moreover, explain Mr. Huttinot's seeming delay in the case.

Another fact much more worthy your attention is the toleration which the French legation accords to some Haitians who have never left the country to inscribe themselves at Port-au-Prince as Frenchmen, an inscription made in derogation of the Haitian constitution, as well as of the French law. It is thus that Messrs. Ganthier Ménos, Tracy Riboul, Auguste Riboul, Emile Riboul, Beaubrun Roux, Pétion Rivière, Ernest Rigaud, Michel Silavois, Louis Silavois, Pétion Silavois, Riobé Rigaud, Dénerly Déjoie, Léon Dénerly Déjoie, Justin Déjoie, Georges Déjoie, etc., have been inscribed as Frenchmen at the legation of France, while they were born Haitians and have always belonged to the Haitian nationality. These men are in no sense Frenchmen in France, while they claim to be Frenchmen in Haiti on the simple complaisance of the French legation. Mr. V. Huttinot has not even stopped at this inscription. A Haitian named Lovinski Rigaud, a soldier in the guard of His Excellency the President of Haiti, having been able to inscribe himself thus, was arrested as a deserter, and the French legation did not hesitate to reclaim him in the face of this act legally exercised in regard to a reprehensible soldier. The department of foreign affairs in no way abandoned the right of the Haitian Government, and the said Rigaud, recognizing himself as a Haitian, was placed at liberty on the proper movement of the Haitian authorities.

I await the time when our relations shall be seriously and diplomatically reestablished with the French Government in order to put a stop to a practice which can tend to nothing less than the national disintegration accomplished surreptitiously outside of national law and in derogation of our international personality.

The Government employs its most constant efforts not to depart from the moderation and the wisdom necessary to the good understanding which ought to exist be-

tween the country and the foreign nations to which it is bound by so many powerful interests; but it will never forget the national dignity and conservation, which must be placed above every other consideration.

In the first days of the month of February I had the great pleasure of receiving at Thomazeau, a commune of the arrondissement of Port-au-Prince, His Excellency General Heuraux, Constitutional President of the Dominican Republic. Never was an interview more cordial. The effusion of sentiment on both sides was sincere and profound, for outside the real sympathies which exist between the two sister Republics whose destinies we direct, there exist also between General Heuraux and myself remembrances which will always give us the liveliest pleasure when we meet hand in hand. This interview, which will have some happy influences upon the march of the two peoples, must contribute especially to the reopening of the conferences destined for the elaboration of a definitive treaty between our two countries. Therefore, the Government, sure of the good dispositions of the Dominican people and of General Heuraux, will soon open the negotiations which must lead to that end.

The Provisional Government, of which I was the chief, paid the fifth term of the claims for damages at Port-au-Prince, the same falling due September 30, 1889, and amounting to \$119,548.23, capital and interest. Two terms of the Domingue debt were equally paid in the beginning of January last in such a way as to bring us up to date with the bondholders. In this view the public service leaves absolutely nothing to be desired.

In brief, notwithstanding some questions which need to be elucidated and which have for us the greatest interest, our international interests are as good as possible. The foreign policy of the Government will tend to strengthen and extend them, in observing all the loyalty and all the courtesy which we ought to observe in our relations with friendly powers and in safeguarding by all means the dignity without which our country will never be able to figure nobly and advantageously among civilized nations.

ITALY.

Mr. Blaine to Mr. Porter.

No. 55.]

DEPARTMENT OF STATE,
Washington, May 3, 1890.

SIR: I have to call your attention to the complaint of Nicolino Mileo, a naturalized citizen of the United States, against the Government of Italy, alleging harsh punishment on a charge of evasion of military service and interference with the personal freedom of his wife, Gaetana Mileo, who is stated to be prevented from quitting Italy to rejoin her husband in this country.

Two affidavits, competently executed by Nicolino Mileo, are herewith transmitted in copy. The good character of the deponent and his general reputation for veracity are attested by several worthy persons in whose employ he was during his long residence in the United States, and copies of their statements are also appended.

It appears from the complainant's affidavits that he was born at Spinoso (in the province of Basilicata?) in January, 1860; that in 1870, being then but 10 years old, he was brought to the United States by his father, Francisco Mileo; that since that date he, Nicolino Mileo, has been domiciled in New York, where he has been engaged in business for 15 years past; that he was married in New York; that his wife, Gaetana, was and is a citizen of the United States; and that he was duly naturalized before the court of common pleas of New York on September 16, 1884, when over 23 years of age. His father, Francisco Mileo, is further stated to have resided in the United States for some 12 years, during which time he declared his intention to become a citizen of the United States; but it appears that he, the father, returned to Italy to reside in 1882, when the son was over 21 years of age and consequently *sui juris*.

It further appears that sometime prior to April 1, 1889, one Albino Calasa, a cousin of the complainant and an Italian subject, died, leaving to the complainant by his will certain real estate situated at Spinoso; and on that date, Nicolino Mileo and his wife set sail for Italy to take possession of this property. They arrived at Spinoso on the 17th of April. On the following day Mileo was ordered by the mayor of that place to go Potenza, 30 miles distant, to report for military service. He showed to that official his certificate of naturalization and claimed immunity from military service on the ground that he was a citizen of the United States, but was told—it is alleged in obscene language—that this paper was of no value, and that if he did not obey the order he would be arrested. Moved by this threat, he consented to go. He arrived at Potenza on the 22d of April, and, despite his protests and claim of American citizenship, he was compelled to strip and undergo a physical examination. Being declared able to serve, he was dressed in the uniform of an Italian soldier. On the 23d of April he was taken

to the city of Alessandria, where he was confined for 30 days in jail, under circumstances, as alleged, of great hardship, as a punishment for his failure to return to Italy to perform military service. He was thereafter compelled to serve for 5½ months in company 12 of the Eighty-sixth regiment of infantry of the Italian army. At the close of that time, having obtained leave of absence, he went to Genoa and left Italy on a vessel bound for Zanzibar, from which place he returned to the United States by way of Marseilles.

He now alleges that the Italian authorities will not permit his wife to come to him and threaten to detain her in Italy until he returns thither. This allegation is so extraordinary and so repugnant to the principles of justice that this Government hesitates to believe it. The whole case calls for the prompt and thorough investigation which you are hereby instructed to ask; and in doing so you will state the confident expectation of this Government that, should the allegations of the complainant be substantiated as to the cruel imprisonment to which he was subjected, and as to the detention of Mileo's wife as a hostage for her husband's return, the action of the Italian authorities will be disavowed and the liberty of this woman, who is stated to be a native citizen of the United States, as well as the wife of a citizen, will no longer be unjustly interfered with.

The claim of the Italian Government with respect to the continuance of obligation of military service notwithstanding the loss of Italian citizenship has been frequently made known and is well understood here. A mass of correspondence on this subject is on file in your legation, and I need only advert to the cases of Sbarbaro in 1871, of Biaggotta in 1872, of Largomarsino in 1877, and of Gabriella in the same year. The case on the part of Italy is understood to rest on article 12, book I, of the Italian civil code, which reads:

12. Loss of citizenship in the cases stated in the preceding article does not exempt from the obligations of military service, nor from the penalty inflicted on anyone who bears arms against his native country.

The preceding article 11 provides, in its second paragraph, that Italian citizenship is lost—

(2) By naturalization in a foreign country.

This provision fully meets the case of Mileo. Brought to this country at the age of 10, he was duly naturalized here at the age of 23, and he resided here continuously for 19 years until last year, when he was 29 years of age. The case is therefore uncomplicated by any question as to the effect of his father's nonrenunciation of Italian citizenship and subsequent return to Italy in 1882, when, as has been seen, he left his son, then *sui juris* and domiciled in the United States, here to perfect his naturalization under our laws. Nicolino Mileo is a citizen of the United States by his own competent act.

As to the question of subjection to Italian military service, a distinct conflict of jurisdiction exists between the two Governments. The position of our Government in this regard and with reference to the treatment of a naturalized American citizen returning to the country having a conflicting claim upon him by reason of his own origin was well stated by Mr. Faulkner, our minister to France in 1860, when he wrote:

The doctrine of the United States is that the naturalized emigrant can not be held responsible upon his return to his native country for any military duty, the performance of which has not been actually demanded of him prior to his emigration. A prospective liability to service in the army is not sufficient. The obligation of contingent duties depending upon time, sortition, or events thereafter to occur is not

recognized. To subject him to such responsibility it should be a case of actual desertion or refusal to enter into the army after having been actually drafted into the service of the Government to which at the time he owed allegiance.

This principle has been practically recognized and specifically affirmed in the various naturalization treaties which the United States have concluded with foreign powers, and even with respect to states holding the doctrine of perpetual allegiance, which the Italian code rejects. It is not believed that the Italian Government claims rights over returning naturalized citizens in essential conflict with our position. It is understood to claim the personal fulfillment of an obligation accruing and complete when the party was still subject to Italian jurisdiction, and to claim the right to punish actual desertion or the refusal to serve when actually conscripted. This latter right of punishment, thus limited and defined, is conceded, be it remarked, by the United States in their naturalization treaties, as witness our treaty of September 20, 1870, with Austria-Hungary, article 2.

When Nicolino Mileo was taken away from Naples by his father at the age of 10, no liability to military services had accrued against him. He was at that time a subject of Ferdinand II, king of the two Sicilies. Had he remained, adopting the fortunes of his native State and becoming a citizen of Italy upon the annexation of Naples to Sardinia on December 17, 1870, he would, on attaining the prescribed age, have been liable to conscription, and, if drawn and found able, to service in the ranks. Because this triple liability in the distant contingencies of the future may have rested on him in an inchoate form at the age of 10, it can not be admitted that this indeterminate responsibility so followed him through his voluntary adoption of a foreign citizenship as to render him liable, 19 years afterwards, to punishment as a malefactor for nonfulfillment of a positive obligation.

There may perhaps be room to maintain a distinction between the punishment of Mileo for a constructive offense and his enforced subjection to military service after he had returned to Italy and had been held personally liable and found physically able to serve. In the latter case a positive conflict of jurisdiction arises, and the action of the Italian authorities in forcing into their ranks a man whose status as a citizen of another State is unquestionable calls now, as on previous occasions, for earnest dissent and protest. It is greatly to be regretted that Italy stands aloof from our repeated proposals to adjust the question by treaty on bases which have in practice through conventional agreements become the measure of international claim and concession in this regard between many of the most important nations of the earth. In this relation, it may be proper to recall to your attention the language employed by Mr. Fish, when Secretary of State, in his instruction to Mr. Marsh, No. 361, of November 15, 1872:

The feeling in the United States, as you are aware, is very strong against compulsory military or naval service of naturalized citizens in countries where they were born. This sentiment the Government would be bound to respect. Cases of the kind frequently occurred with the German States prior to the naturalization treaties with them. Since then, however, it is believed that no difficulty upon the subject has happened. It is a matter of regret, in the interest of friendly relations with Italy, that she should have declined our overtures for a similar convention.

I may add that it is unfortunate that by its attitude in this regard Italy should be put in the erroneous position of appearing to cling to the now very generally abandoned doctrine of perpetual allegiance, a dogma alike contrary to her enlightened policy and expressly rejected by her national code.

As for the allegation that Mrs. Mileo is deprived of her personal freedom and coerced into remaining in Italy, the charge is so incredible that, without fuller knowledge on the subject, it is not possible to instruct you further than to make instant and earnest protest should the fact be established. Whatever may be the charges laid at the husband's door, no theory of law is known by which the wife can be vicariously proceeded against or be held as a hostage for the husband's appearance. I prefer, however, to believe that the statement is either without foundation or rests on some misconception which the Italian Government can and will at once remove by recognizing in favor of this American woman the right she claims to quit Italian territory at will.

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1 in No. 55.]

Mr. Kennedy to Mr. Blaine.

WASHINGTON, February 18, 1890. (Received February 18.)

SIR: The petition of Nicolino Mileo, which I have the honor to submit for your consideration, presents, it seems to me, a case of extraordinary interest and importance to the Government and people of the United States.

A citizen of the United States, naturalized under the laws which provide for the naturalization of foreigners who have settled in this Republic before attaining the age of 18 years (R. S., 2167), returns temporarily to his native country for a lawful and eminently proper purpose, and, almost immediately upon his arrival, is arrested and forcibly conveyed to another part of the Kingdom, where he is imprisoned in a cold, dark cell or vault far underground and fed on bread and water for 30 days, and afterwards forced into the military service of a monarchy whose only claim on him arises from the fact that he happened to be born in its territory.

The petition shows that when he came to this country Mileo was a mere child and owed no duty whatever to the Italian Government. He was under the power of his father, who brought him to New York in the year 1871. Mileo's father several years afterwards returned to Italy, but Mileo remained and has always resided in New York since he first arrived in that city, and, as appears by the inclosed certificate of his naturalization, he had been a naturalized citizen of the United States for more than 4 years prior to his temporary return to Italy in April of last year.

There can be no pretense in this case that Mileo owed any military or other service to the Italian Government when he was taken away from Italy by his father in the year 1870, or that he left that Kingdom for the purpose of evading any duty that he would or might have owed to the Italian Government if he had remained and lived till he was of age within Italian territory.

I need not say to you that for more than 30 years the Department of State has maintained the absolute freedom of naturalized citizens of the United States from liability to their native country, on their temporary return thereto, for military service that was not actually due and enforceable at the time of their emigration.

This doctrine was stated by Mr. William Richardson, at that time Secretary of the Treasury and now Chief Justice of the Court of Claims, in a communication addressed to the President of the United States on October 20, 1873, as follows:

"A distinction was taken, however, in 1859 by the State Department, which limited this view and which confined the foreign jurisdiction in regard to naturalized citizens to such of them as were in the army or actually called into it at the time they left the country; that is, to the case of actual desertion or refusal to enter the army after having been regularly drafted and called into it by the government to which they at the time owed allegiance.

"In accordance with this view, Mr. Faulkner, minister of the United States at Paris in 1860, said, in reference to the case of a naturalized citizen who had emigrated before the period of military service:

"The doctrine of the United States is that the naturalized emigrant can not be held responsible, upon his return to his native country for any military duty the performance of which has not been actually demanded of him prior to his emigration. A prospective liability to service in the army is not sufficient. The obligation of contingent duties depending upon time, sortition, or events thereafter to occur is not

recognized. To subject him to such responsibility, it should be a case of actual desertion or refusal to enter the army after having been actually drafted into the service of the Government to which he at the time owed allegiance.

"The Secretary of State under Mr. Buchanan made the same distinction between the contingent liability of those naturalized citizens who left the country of their origin before the age of military service, without the consent required by law, and those who escaped after they were actually enrolled. He claimed that the former were, irrespective of the obligations arising from the contingent liability which in the interim had become complete, entitled, even in their native country, to the full protection of American citizens.

"This doctrine is in entire harmony with the views of the Attorney-General expressed in 1859 in the case of Christian Ernst, and may, I think, be considered the views of the Government of the United States. (9 Ops., 357.)

"A native or naturalized citizen, therefore, may now go forth with equal security over every sea and into every land, including the country where the latter was born. They are both American citizens, and their exclusive allegiance is due to the Government of the United States." (Foreign Relations, 1873, part 2, pp. 1206-1208.)

The case of the petitioner comes clearly within the doctrine and practice of the Department and within the principles declared by Congress on the 27th of July, 1868, in the "act concerning the rights of American citizens in foreign states" (15 Stats., 223, 224).

Unless the action of his civil and military officers in Mileo's case is disavowed by His Majesty the King of Italy, it is a practical assertion in the most positive and offensive form of the doctrine of inalienable allegiance.

The petition shows that Mileo exhibited his certificate of naturalization to the civil and military officers of the Italian Government before whom he was taken and claimed at their hands immunity and protection as a citizen of the United States; but they treated the evidence of his nationality with contempt, and one of the magistrates derided it in terms at once insulting and obscene.

Mileo's wife, who was about to become a mother, accompanied him to Italy, and by the enforced separation (which still continues) and the grief and apprehension incident to the situation, it can readily be believed that she was perhaps a greater sufferer than her husband from the cruel and tyrannical treatment to which he was subjected by the Italian authorities. And she, too, was and is a citizen of the United States. It is scarcely credible that the Italian Government is preventing her return as a sort of vicarious punishment for the escape of her husband to the United States, although such an allegation is made, doubtless in good faith, in the petition. I am assured of the truth of the petition in all its essential parts by the Messrs. Leavitt Brothers, of New York, attorneys for the petitioner.

It seems to me that this is a case for prompt and decisive action by the President and Congress under the act of July 27, 1868, and also that, considering the nature of the wrongs inflicted upon him, Mileo is entitled to the full amount of the damages which he claims from the Italian Government.

I have, etc.,

CRAMMOND KENNEDY,
Of Counsel for Nicolino Mileo.

In the matter of the claim of Nicolino Mileo against the Government of Italy.

STATE OF NEW YORK, *City and County of New York*, ss :

Nicolino Mileo, being duly sworn, says that he is a citizen of the United States, having been duly naturalized as a citizen of the said United States by the court of common pleas for the city and county of New York on the 16th day of September, 1884, and that hereto annexed is a duly certified copy of deponent's certificate of naturalization.

And this deponent further says that he was born in the town of Spynosa in the Kingdom of Italy, in the month of January, 1860. That in the year 1870, when this deponent was a minor of the age of 10 years, Francisco Mileo, the father of this deponent, came to the city of New York and brought this deponent with him. That since said year of 1870 this deponent has resided and now resides in the said city of New York, and is a citizen of the State of New York. That since September 16, 1884, this deponent has been and is now a duly qualified voter in the said State, city, and county of New York. That for more than 15 years this deponent has been and is now engaged in business in the said city of New York.

And this deponent further says that some time prior to April 1, 1889, one Albino Calasa, a cousin of this deponent, residing in the said town of Spynosa, in the said Kingdom of Italy, died, and by his last will and testament left to this deponent a piece or parcel of real property situated in said town of Spynosa, in said Kingdom of Italy, and valued at between \$800 and \$1,000.

That on the said 1st day of April, 1889, this deponent, accompanied by Gaetana Mileo, the wife of this deponent, sailed from the said city of New York for the city of Naples, in said Kingdom of Italy, for the purpose of taking possession of said piece or parcel of real property and selling the same, intending as soon as said sale of said property was consummated to return to said city of New York.

That on the 17th day of April, 1889, this deponent and his said wife arrived at the port of Naples, in said Kingdom of Italy, and on the same day proceeded to the said town of Spynosa, and arrived at said town on said 17th day of April, with his said wife, and this deponent and his said wife went to the house of the said father of this deponent, Francisco Mileo.

That on the 18th day of April, 1889, while deponent was at the said house of his said father, he received a message from the mayor of the said town of Spynosa, telling this deponent to go to the town of Potenza, 30 miles distant from said town of Spynosa, and report to the military authorities in that town, and if he did not go he, the said mayor, would arrest him.

That immediately upon the receipt of the said message from the said mayor, this deponent called upon the said mayor and asked him why he had to go to Potenza, the said mayor answered that deponent would have to serve in the army. Deponent thereupon told said mayor that he was a citizen of the United States, and showed said mayor his said certificate of naturalization as a citizen of the United States, and told the said mayor that he had lived in the United States since he was 10 years old. In reply the said mayor laughed and said: "Those papers are no good; * * * you can tear them up." This deponent replied, saying: "I will not; they are my protection." The said mayor then said: "You will find no protection here on those papers; if you do not go to Potenza, I will lock you up." Deponent answered, saying: "You have no right to lock me up." The mayor replied: "Make up your mind to either go or get locked up."

And this deponent further says, at said time the said wife of this deponent was in a delicate condition and about to be confined in a few months, and deponent, for fear the said mayor would lock him up, and to save the disgrace of being locked up, and for fear if he was arrested and locked up it would seriously injure his said wife, went to the said town of Potenza, accompanied by two secretaries of the said mayor. That this deponent arrived at the said town of Potenza at about 11 a. m. on the 22d day of April, 1889, and went immediately before the consul of labor.

That upon deponent's arrival in the presence of the said consul of labor, the said consul of labor told deponent to undress. Deponent refused to undress, and told the said consul of labor that he was a citizen of the United States, and that he had lived in the said United States since he was 10 years old, and at the same time deponent showed the said consul of labor his said certificate of naturalization as a citizen of the United States; that the only reply the said consul of labor made was, "Undress, and be quick about it, or we will tear your clothes off of you;" that thereupon this deponent, in fear of bodily violence, undressed, and a physical examination was made of this deponent; that after said examination was made, the said consul of labor declared deponent to be able to serve in the army, and was forthwith dressed in the uniform of a soldier of the said Kingdom of Italy, the clothes of this deponent being taken away; that immediately this deponent was taken by two soldiers to the headquarters of the said army in said town of Potenza and kept the balance of said day and the ensuing night in a room at said headquarters; that on the next day, the 23d of April, 1889, this deponent was taken by two soldiers to the town of Alexandria in said Kingdom of Italy, arriving at said town of Alexandria on the 27th day of April, 1889; that immediately upon the arrival of this deponent at the said town of Alexandria this deponent was put into a cell in a jail in said town of Alexandria.

That the said cell in said jail in which this deponent was confined was a dark cell about 50 feet under ground. The said cell was about 8 feet long by 8 feet wide, with heavy iron gratings; the sides of said cell were of stone, and the floor was of asphalt or cement, and there was no window to said cell, and the same was damp and unhealthy. No light nor air could penetrate said cell, except through the iron gratings through the passage which led to said cell, which passage was reached by stone steps from above. That there was no bed or furniture of any description in said cell, except a wooden bench about 7 feet long and 3½ feet wide. That no bedding or blankets of any kind were provided for deponent, and deponent was compelled to sleep on said wooden bench and thereby suffered greatly from the dampness and coldness. That deponent was confined in said cell for a period of 30 days and during that time was given one-half a loaf of bread per day and nothing else for food, having, however, plenty of water. That at the time deponent was placed in said cell he was told he was thus imprisoned because he had not returned to Italy when he had arrived at the age of 21 years and served 4 years in the army. That during said time this deponent was so imprisoned in said jail as aforesaid he was not allowed to communicate with his said wife or family or anyone else. That during the said confinement of this deponent in said cell he underwent great mental and bodily suffering.

And this deponent further says that about a week after he was placed in said cell deponent surreptitiously wrote a letter to the United States consul at Rome, in the said Kingdom of Italy, informing said consul of his arrest and detention and of his rights as a citizen of the United States, and requesting said consul to obtain his release. That thereafter deponent received a reply from said consul stating that said consul had attempted to obtain deponent's release but could not, and that he, said consul, could do nothing further.

And this deponent further says that at the expiration of 1 month from the time this deponent was placed in said cell deponent was taken from his said cell and forced to serve as a common soldier in regiment eighty-six of infantry, in company twelve, said company being under the command of one Captain Frassinetti. That immediately upon the release of this deponent from said cell, deponent told said Captain Frassinetti that he had no right to keep deponent a prisoner and make deponent serve in said army, as deponent was a citizen of the United States and had lived in the United States since he was 10 years of age, and at the same time showed to said Captain Frassinetti his said certificate of naturalization as a citizen of the United States. That said Captain Frassinetti told deponent said certificate would afford deponent no protection.

And this deponent further says that he was forced to serve in said army 5½ months. That during the whole time of deponent's said service his food was poor in quality and insufficient in quantity. That deponent suffered great hardships during the time of his said service, both bodily and mentally. That at the expiration of the said period of 5½ months this deponent received a leave of absence from said regiment for the period of 15 days, and thereupon deponent left the said town of Alexandria and went to the city of Genoa, in said Kingdom of Italy. That at the said city of Genoa deponent went on board a French ship bound for Zanzibar, Africa, and asked one of the officers of said ship to help this deponent escape, deponent telling the said officer that deponent was a citizen of the United States and was forced to serve in the said army of Italy, at the same time showing said officer deponent's said certificate of naturalization as a citizen of the United States. That upon deponent's paying 60 francs deponent was allowed to take passage in said ship to Zanzibar.

Upon the arrival of this deponent at Zanzibar, deponent having no money, deponent wrote to his said wife at said town of Spynosa, asking his said wife to send deponent money to enable deponent to leave Zanzibar.

That thereafter this deponent received \$60 from his said wife, and upon receipt of said \$60 this deponent took passage for Marseilles, France; that deponent was detained 4 days in said city of Marseilles, France, and then this deponent took passage on the ship *Edam* for the city of New York, arriving in said city of New York on the 12th day of December, 1889.

And this deponent further says that his treatment by the said consul of labor, as hereinbefore set forth, was wrongful, unlawful, and illegal, and in violation of his rights as a citizen of the United States; that the imprisonment of this deponent in a dark cell for 1 month by the said Italian authorities, as hereinbefore set forth, was forcible, wrongful, unlawful, and illegal, and in violation of the rights of this deponent as a citizen of the United States; that this deponent was forcibly, wrongfully, and illegally, and in violation of the rights of this deponent as a citizen of the United States forced to serve in the army of the said Kingdom of Italy by the authorities of said Kingdom of Italy, as hereinbefore set forth.

And this deponent further says, by reason of said forcible, wrongful, and illegal imprisonment of this deponent as hereinbefore set forth, this deponent was not only deprived of his liberty, but was injured in his person, character, and reputation, and was prevented from attending to his necessary affairs and business during the period of 6½ months, and during the whole of said time suffered greatly from the want of sufficient food and bodily injuries, and injuries to the feelings of this deponent, to the damage of this deponent in the sum of \$50,000.

And this deponent further says that since the return of this deponent to New York as aforesaid, this deponent has received a letter from his said wife, dated at the said town of Spynosa, informing this deponent that the said authorities of the said Kingdom of Italy will not grant to deponent's said wife a passport allowing deponent's said wife to depart from said Kingdom of Italy, but wrongfully, illegally, and unjustly detain said wife of this deponent in said Kingdom of Italy; that said authorities of said Kingdom of Italy have informed the said wife of this deponent, as deponent is informed and believes, that the said wife of this deponent will be detained in the said Kingdom of Italy by the authorities of said Kingdom until this deponent returns to said Kingdom of Italy.

And further this deponent saith not.

NICOLINO MILKO.

Sworn to before me this 7th day of January, 1890.

FRANK O'BYRNE,
Commissioner of Deeds, New York City.

STATE OF NEW YORK, *City and County of New York, ss:*

I, Edward F. Reilly, clerk of the city and county of New York, and also clerk of the supreme court for the said city and county, being a court of record, do hereby certify that Frank O'Byrne, before whom the annexed deposition was taken, was, at the time of taking the same, a commissioner of deeds of New York, dwelling in said city and county, duly appointed and sworn, and authorized to administer oaths to be used in any court in said State and for general purposes; that I am well acquainted with the handwriting of such commissioner, and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court and county the 15th day of January, 1890.

[L. s.]

EDWARD F. REILLY,
Clerk.

UNITED STATES OF AMERICA, *State of New York:*

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come, greeting:

Know ye that we, having examined the records and files of our court of common pleas for the city and county of New York, do find there remaining of record a certain copy of naturalization certificate and affidavit in the words and figures following, to wit:

[Court of common pleas for the city and county of New York.]

In the matter of the application of Nicolino Mileo, by occupation clerk, to be admitted a citizen of the United States of America. Applicant born February, 1860; applicant arrived in United States January, 1871. Witness became acquainted with applicant January, 1871.

STATE OF NEW YORK, *City and County of New York, ss:*

Nicolino Mileo, the above-named applicant, being duly sworn, says that he resides at No. 526 Broome street, in the city of New York; that he has arrived at the age of 21 years; that he has resided in the United States 3 years next preceding his arrival at that age, and has continued to reside therein to the present time; that he has resided 5 years within the United States, including the 3 years of his minority and 1 year, at least, immediately preceding this application, within the State of New York; and that for 2 years next preceding this application it has been bona fide his intention to become a citizen of the United States.

Sworn in open court this 16th day of September, 1884.

NICOLINO MILEO.

NATHL. JARVIS, Jr.,
Clerk.

STATE OF NEW YORK, *City and County of New York, ss:*

Morris Flaredy, being duly sworn, says that he resides at No. 71 Sullivan street, in the city of New York, and is by occupation musician, and that he is well acquainted with the above-named applicant; and that the said applicant has resided in the United States for 3 years next preceding his arrival at the age of 21 years; that he has continued to reside therein to the present time; that he has resided 5 years within the United States, including the 3 years of his minority, and in the State of New York 1 year, at least, immediately preceding this application; and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and deponent verily believes that for 3 years next preceding this application it has been bona fide the intention of the said applicant to become a citizen of the United States.

Sworn in open court this 16th day of September, 1884.

MORRIS FLAREDY.

NATHL. JARVIS, Jr.,
Clerk.

STATE OF NEW YORK, *City and County of New York, ss:*

I, Nicolino Mileo, the above-named applicant, do declare on oath that it is bona fide my intention, and has been for 2 years next preceding this application, to become a citizen of the United States, and to renounce forever all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, particularly to the King of Italy, of whom I am now a subject.

Sworn in open court this 16th day of September, 1884.

NICOLINO MILEO.

NATHL. JARVIS, Jr.,
Clerk.

STATE OF NEW YORK, *City and County of New York, ss :*

I, Nicolino Mileo, the above-named applicant, do solemnly swear that I will support the Constitution of the United States, and that I do absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly to the King of Italy, of whom I was before a subject.

NICOLINO MILEO.

Sworn in open court this 16th day of September, 1884.

NATHL. JARVIS, Jr.,
Clerk.

At a special term of the court of common pleas for the city and county of New York, held in the court-house of the city of New York on the 16th day of September, 1884.

Present: Hon. Henry Wilder Allen, judge.

In the matter of the application of the within-named applicant to be admitted a citizen of the United States of America.

The said applicant appearing personally in court, producing the evidence required by the acts of Congress, and having made such declaration and renunciation, and having taken such oaths as are by the said acts required, it is ordered by the said court that the said applicant be admitted to be a citizen of the United States of America.

Enter.

H. W. A.,
J. C. C. P.

[Indorsement.]

New York common pleas. In the matter of Nicolino Mileo on his naturalization. Proofs, etc. Filed in open court September 16, 1884. Nathl. Jarvis, jr., clerk.

All which we have caused by these presents to be exemplified, and the seal of our said court of common pleas to be hereunto affixed.

Witness Richard L. Larremore and presiding judge of our said court of common pleas for the city and county of New York, at the court-house in the city of New York, the 15th day of January, in the year of our Lord 1890, and in the one hundred and fourteenth year of the independence of the United States of America.

[L. s.]

S. JONES,
Clerk.

I, Richard L. Larremore, judge and presiding judge of the court of common pleas for the city and county of New York, do hereby certify that S. Jones, whose name is subscribed to the preceding exemplification, is the clerk of the said court of common pleas, duly appointed and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of the said court of common pleas, and that the attestation thereof is in due form of law.

Dated, New York, January 15, 1890.

R. L. LARREMORE.

STATE OF NEW YORK, *City and County of New York, ss :*

I, S. Jones, clerk of the court of common pleas for the city and county of New York, do hereby certify that Richard L. Larremore, whose name is subscribed to the preceding certificate, is a judge and the presiding judge of the court of common pleas for the city and county of New York, duly elected, commissioned and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof, I have hereto set my hand and affixed the seal of the said court this 15th day of January, 1890.

[L. s.]

S. JONES,
Clerk.

[Inclosure 2 in No. 55.]

Mr. Kennedy to Mr. Blaine.

WASHINGTON, February 27, 1890. (Received February 27.)

SIR: The alleged conduct of the Italian authorities in this case raises issue so sharply and thoroughly with the Government of the United States upon the right of expatriation, that it has seemed to me important that you should be assured of the complainant's trustworthiness and integrity. I have accordingly the honor to inclose three affidavits in regard to Mileo's respectability and especially his reputation for veracity.

It appears from the affidavit of Mr. Humphrey H. Leavitt, late United States consul at Managua (testimonials to whose high character from some of the most distinguished men in the country are on file in the Department of State), that he has been acquainted with Mileo for more than 10 years, and that during this period Mileo has borne "a good character for veracity," and, in Mr. Leavitt's opinion, is "a sober and industrious citizen." Mr. Leavitt adds that "he drew the affidavit of said Mileo, hereinbefore presented to the Department of State," and "verily believes all the statements therein contained to be true."

Upon an acquaintance of 7 years with Mileo, Mr. Edwin R. Leavitt corroborates his brother's testimony in regard to Mileo's veracity and trustworthiness, and Mr. William A. Persch, who has known Mileo "for over 10 years," testifies to the same effect. With those who are acquainted with the Messrs. Leavitt, the fact that they are attorneys for the claimant would rather increase than lessen the weight of their testimony in his favor.

I suppose that under the act of July 27, 1868 (15 Stats., 223, 224), the President is not required to report the case to Congress until he shall have made such representations to the Italian Government as it may seem to him proper, whether by way of complaint or in reply to any denial or defense which that Government may interpose.

I have, etc.,

CRAMMOND KENNEDY,
Of Counsel for Nicolino Mileo.

In the matter of the claim of Nicolino Mileo against the Government of Italy.

STATE OF NEW YORK, *City and County of New York*, ss:

H. H. Leavitt, being duly sworn, says he is a native-born citizen of the United States, and is a citizen of the State of New York, and is an attorney and counselor-at-law, duly admitted to practice as such in said State, and is one of the attorneys for the above-named Nicolino Mileo, having his office at No. 280 Broadway, New York City. And this deponent further says that he has been acquainted with said Mileo for over 10 years, and since the year 1886 said Mileo has been a client of the firm of this deponent. And this deponent further says that during the said period of deponent's acquaintance with said Mileo the said Mileo bore a good character for veracity and is a sober and industrious citizen. And this deponent further says that he drew the affidavit of said Mileo hereinbefore presented to the Department of State, and that deponent verily believes all the statements therein contained to be true. That deponent cross-examined the said Mileo closely and minutely as to the facts stated in said affidavit, and said Mileo answered the questions of this deponent in a straightforward and truthful manner.

H. H. LEAVITT.

Sworn to before me this 24th day of February, 1890.

[SEAL.]

FRANK O'BYRNE,
Commissioner of Deeds, New York City.

CITY, COUNTY, AND STATE OF NEW YORK, ss:

Edwin R. Leavitt, being duly sworn, says that he is a member of the firm of Leavitt & Leavitt, the attorneys for the petitioner herein, Nicolino Mileo; that deponent has known said Mileo since about the year 1883; has frequently seen him during that period, and has known and knows him to be a person of good and reputable and truthful character and an industrious and law-abiding citizen of said State; that deponent has heard said Mileo's statement of the facts pertaining to his visit to Italy, as declared in his deposition herein, having interrogated him personally concerning the same; that from deponent's knowledge of the said Mileo's character and his personal acquaintance with him, deponent verily believes that said Mileo's statements and depositions are true in each and every particular.

EDWIN R. LEAVITT.

Sworn to before me this 25th day of February, 1890.

[SEAL.]

FRANK O'BYRNE,
Commissioner of Deeds, New York City.

In the matter of the claim of Nicolino Mileo against the Government of Italy.

STATE OF NEW YORK,
City and County of New York, ss:

William A. Persch, being duly sworn, says he is a native-born citizen of the United States and a citizen of the State of New York, residing in the city of New York, and is in the business of insurance, having his office at No. 287 Broadway, in said city of New York.

And this deponent further says that he is acquainted with the above-named Nicolino Mileo, and has known said Mileo for over 10 years; that deponent first became acquainted with the said Mileo in the year 1879; that at the said time said Mileo had the charge of certain billiard rooms at No. 1227 Broadway, in said city, and continued in charge of said billiard rooms until about the year 1887; that thereafter and until the first part of the year 1889 said Mileo had charge of the billiard rooms at No. 339 Sixth avenue, in said city.

And this deponent further says that during the said time this deponent was acquainted with said Mileo the said Mileo bore a good reputation for veracity and was sober and industrious.

WILLIAM A. PERSCH.

Sworn to before me this 24th day of February, 1890.

[SEAL.]

FRANK O'BYRNE,
Commissioner of Deeds, New York City.

[Inclosure 3 in No. 55.]

Mr. Kennedy to Mr. Blaine.

WASHINGTON, April 17, 1890. (Received April 17.)

SIR: I have the honor to submit a supplemental affidavit, verified by the claimant in this case on the 15th instant, and herewith inclosed, from which it appears that his father, Francisco Mileo, in the year 1875, when he had been resident and engaged in business in the city of New York on his own account for about 5 years, declared his intention of becoming a citizen of the United States. He seems to have purposed bona fide to remain permanently in this country, and, as matter of fact, he did remain until the year 1882. New York was therefore his domicile from 1875 to 1882, if not from 1870.

Having been born in 1860, Nicolino was 18 years old in 1878, and of age in 1881, at both of which dates his father, as we have seen, was domiciled in New York. And, as Nicolino was of age in 1881 and free to choose his own domicile, it was, of course, unaffected by the return of his father to Italy in 1882.

If Francisco (the father) had returned to Italy to reside permanently while Nicolino (the son) was under 18 years of age, and had left him to shift for himself in New York, it might have been claimed by the Italian Government that, when he reached the age of liability to military service, as prescribed in Italy, if that age were less than 21 years, his domicile was legally in that country, being fixed by the domicile of his father; but no such claim, it is apprehended, can be sustained, or even suggested, upon the facts disclosed by the supplemental affidavit. Father and son had been living together in New York for 11 years when the latter became of age, and so they lived for a year or more subsequently.

I shall be glad to be informed, if agreeable to you, of any action that has been or may be taken by the Department in this case, and I have the honor to be, etc.,

CRAMMOND KENNEDY,
Of Counsel for Claimant.

In the matter of the claim of Nicolino Mileo against the Government of Italy.

STATE OF NEW YORK, *City and County of New York*, ss:

Nicolino Mileo, being duly sworn, deposes and says he is the petitioner herein; that in the year 1870 deponent came to the city of New York with his said father, Francisco Mileo, this deponent then being a minor of the age of 10 years; that the said father of this deponent, Francisco Mileo, shortly after his arrival in said city of New York, was engaged in the grocery business at No. 526 Broome street, in said city of New York, and continued in said grocery business at said place for about 3 years, viz, until the year 1873, when said Francisco Mileo failed in business; that thereafter the said Francisco Mileo was employed as a journeyman carpenter and continued in that employment for about the period of 3 years, to wit, until the year 1876; that in or about the year 1876, the said Francisco Mileo returned to Italy for the purpose of settling an estate left to him by a relative and was absent from said city of New York for about the period of 3 months, returning to said city of New York in or about the latter part of the year 1876 or the first part of the year 1877.

That thereafter the said Francisco Mileo again engaged in the grocery business at said number 526 Broome street, in said city of New York, and continued in said grocery business at said place for about the period of 6 years. That in or about the year 1882 the said Francisco Mileo sold out said grocery business and returned to the said Kingdom of Italy, and since said year has resided and still resides in said Kingdom of Italy.

And this deponent further says that in or about the year 1875 the said Francisco Mileo, as this deponent was informed by the said Francisco Mileo and verily believes, declared his intentions of becoming a citizen of the United States, but never perfected his citizenship, although up to the year 1882, when said Francisco Mileo returned to the said Kingdom of Italy, the said Francisco Mileo frequently told this deponent that he intended to become a citizen of the United States by perfecting his naturalization as a citizen of the United States.

And this deponent further says that, from his arrival in the said city of New York in the year 1870 to the departure of his said father Francisco Mileo from the said city of New York to the said Kingdom of Italy, this deponent lived with his said father in the said city of New York.

And this deponent further says that in or about the year 1873 this deponent went to school in one of the public schools of the said city of New York, to wit, the public school on Dominick street, in said city, and continued attending the night sessions of said school for the period of 1 year.

That in the year 1874 deponent was in the employ of one D. E. Balis at No. 685 Broadway, in said city, and continued in the employ of said D. E. Balis at said place for the period of about 3 years, to wit, the year 1877. That thereafter deponent was in the employ of the Rossmore Hotel, at the corner of Broadway and Forty-second street in said city, and continued in the employ of said hotel until the fall of the year 1879, when deponent secured employment with Charles D. Shepard, as hereinbefore set forth in the affidavit of this deponent heretofore made, and in the affidavit of the said Charles D. Shepard on file in the Department of State.

And this deponent further says that this deponent as a boy always intended to become a citizen of the United States, and that the said father of this deponent frequently told and advised this deponent to become a citizen of the United States, and educated this deponent with the purpose of having this deponent a citizen of the United States. That this deponent as a boy always intended to reside in the United States and always intended to make his home in the said city of New York. That when deponent went to Italy he had no intention of residing in said Kingdom of Italy, but merely went for the purpose of selling the property mentioned in the affidavit heretofore made by this deponent, and immediately returning to the said city of New York.

NICOLINO MILEO.

Sworn to before me this 15th day of April, 1890.

LAMON MCLOUGHLIN,
Notary Public, New York County.

Mr. Porter to Mr. Blaine.

No. 93.]

LEGATION OF THE UNITED STATES,
Rome, June 11, 1890. (Received June 24.)

SIR: Your dispatch No. 55, dated the 3d ultimo, relating to the case of Nicolino Mileo, was duly received.

I have not yet submitted the case to the minister for foreign affairs, having had a desire, before doing so, to give a more careful study to the questions which it involves.

I expect to present Mileo's case the first of next week, when the minister will receive the members of the diplomatic corps. I shall first submit a note and shall then ask that a special audience shall as soon afterwards as practicable be given to me with regard to the case and with a view, also, of urging the adoption of amendments to our treaties with Italy in relation to the subjects of naturalization and the extradition of offenders.

I have, etc..

A. G. PORTER.

Mr. Porter to Mr. Blaine.

No. 101.]

LEGATION OF THE UNITED STATES,
Rome, July 9, 1890. (Received July 26.)

SIR: In compliance with your instruction No. 55 of May 3, 1890, I transmitted to the minister for foreign affairs a note setting forth the grievances alleged to have been inflicted upon Nicolino Mileo and his wife and inviting early and earnest attention thereto. I also had an interview with the minister, who promised that the cases should receive prompt and thorough investigation. He ventured to affirm at once, however, that the story of the detention of Mileo's wife, would turn out to have no foundation in truth. On my stating that the recurrence of such painful questions as were presented in Mileo's case might be avoided by treaty provisions similar to those contained in the conventions of the United States with Belgium and Austria-Hungary, he said that views submitted in writing would be very attentively considered; but his remarks convinced me that little hope could be entertained at present of the doctrine being relinquished that a native of Italy, naturalized in another country, is liable on his return to Italy to be drafted into the army and to render military service in like manner as if he had not been naturalized. This is a doctrine which, it is said, King Victor Emanuel maintained with unyielding firmness.

I have no great confidence that concessions on the part of the United States similar to those contained in the treaties above mentioned would at present be accepted as an equivalent for the right asserted.

It will give me pleasure to pursue any course which you may do me the honor to suggest and which you may regard as likely to be efficacious in bringing about the relinquishment of a doctrine the enforcement of which always produces irritation and is regarded by the United States as unjust.

I am, etc.,

A. G. PORTER.

Mr. Wharton to Mr. Porter.

No. 72.]

DEPARTMENT OF STATE,
Washington, July 29, 1890.

SIR: I have to acknowledge the receipt of your No. 101 of the 9th instant, reporting that you had brought the case of Nicolino Mileo to the attention of the Italian Government, which had promised a prompt and thorough investigation of it.

Awaiting your further reply upon this subject, and adding that the claimant's attorney has been advised of the presentation of the case and of the promise of the Italian Government respecting it,

I am, etc.,

WILLIAM F. WHARTON,
*Acting Secretary.**Mr. Dougherty to Mr. Blaine.*

No. 114.]

LEGATION OF THE UNITED STATES,
Rome, September 1, 1890. (Received September 15.)

SIR: Referring to the Department's instruction No. 55 of May 3, 1890, and to Minister Porter's dispatch No. 101 of July 9, 1890, I have the honor to announce that I am just in receipt of the reply of the

Italian minister for foreign affairs to the communication of the United States minister, in which latter was presented the case of the alleged grievances sustained by one Nicolino Mileo, an Italian naturalized citizen of the United States, who declared that upon his return to Italy in April, 1889, he was arrested as a deserter from the Italian army, thrown into prison, and afterwards obliged to serve over 5 months in the Italian army despite his protest that he was a citizen of the United States, and who furthermore declared that his wife, a native citizen of the United States, was detained in this country as a hostage for her husband and was subjected to police surveillance.

I have the honor to inclose a copy of the United States minister's letter to the minister for foreign affairs and a copy and translation of the latter's reply.

I am, etc.,

C. A. DOUGHERTY.

[Inclosure 1 in No. 114.]

Mr. Porter to Mr. Crispi.

LEGATION OF THE UNITED STATES,
Rome, June 23, 1890.

YOUR EXCELLENCY: I have instructions from my Government to invite the earnest and early attention of Your Excellency to certain grievances of a very grave nature alleged to have been inflicted by civil and military officers of His Majesty the King of Italy upon Nicolino Mileo and his wife, citizens of the United States of America.

The facts are alleged by Mileo to be as follows:

Mileo was born at Spinoso, in Italy, in January 1860, and was taken by his father, an Italian subject, to the United States in 1870. The father in 1882 returned to Italy to renew his permanent abode. The son remained in the United States, and, having subsequently complied with the provisions of its laws respecting the naturalization of aliens, became, in 1884, at the age of 23 years, on his voluntary application, a citizen of that country. From that time until now he has remained a citizen of the United States, and, according to the testimony of persons of good repute who have known him well, has conducted himself as an industrious, moral, and exemplary member of the community in which he has dwelt. He was married in the city of New York to a woman born in that city and who is a citizen of the United States.

In 1889 Mileo became, by the will of a cousin who died in that year at Spinoso, entitled to an interest in certain landed property in that town which had belonged to that kinsman. Desiring to take possession of the property that had thus been devised to him, he soon after departed with his wife to Italy. He arrived in April of that year at Spinoso, his destination. On the day after his arrival he was commanded by the mayor of the place to proceed to Potenza, a town about 30 miles distant, to report for military service. He showed to that official his certificate of naturalization and protested that, being a citizen of the United States, he was not liable to military duty. His protest was treated with derision, and, moved by threats of arrest if he did not comply with the demand, he proceeded to the place designated. He arrived at Potenza on the 22d of April, and, notwithstanding his renewed protest, he was required to strip himself naked and to undergo a physical examination, upon the completion of which, having been pronounced able for military service, he was required to put on the uniform of an Italian soldier. On the 23d of April he was taken to Alessandria, where he was consigned to prison as a punishment for having neglected to return to Italy to perform military service. For 5½ months he was compelled to serve as a soldier in Company 12 of the Eighty-sixth Regiment of Italian Infantry, at the end of which time he effected his escape, and, making his way to Genoa, took passage on a vessel destined for Zanzibar, from which he returned to the United States by way of Marseilles. He arrived in New York on the 12th of December, 1889, where he has ever since remained.

The wife, however, according to Mileo's statement, has remained in Italy ever since, having been forbidden by the officers at Spinoso to leave for the purpose of returning to her husband, and a surveillance over her has been maintained in order that she may be kept as a hostage for his return.

Dismissing from immediate consideration the question of the liability of Nicolino Mileo to military service and the harsh measure alleged to have been adopted of commanding him to report for military duty nearly at the instant of his arrival at his birthplace, and before he could have been expected to be able to give a necessary attention to the business which brought him hither or to visit the scenes or salute the friends from whom he had been so long separated, there can be little doubt that the refusal to allow the wife to return to her own country until the husband should respond for military duty would, if justified by His Majesty's Government, be regarded an affront to the United States and a case of grave injustice to her two citizens affected by it. It would be so out of harmony with that sense of international comity, with which His Majesty's Government has never been encharged with having been wilfully delinquent, that I hesitate to believe that there may not be in the statement of facts which has been presented some element omitted which may be found to relieve the case of its appearance of harshness. If the statement, however, shall be ascertained to be true, the confident expectation of the Government of the United States is entertained that the acts will be disavowed and the liberty of this woman will no longer be interfered with.

With respect to the case of Mileo himself, it is to be observed that, having gone to the United States when he was but 10 years old, he had not attained to the age when he could become subject to levy as a soldier in Italy, and his years were so tender that there can not be imputed to him a purpose of having gone there to escape military duty. His partiality for the United States after his arrival was evinced by his not having returned with his father to his native country and by his having, at 23 years of age, when he had attained fully to years of discretion, become by his free choice and upon his own application a citizen of the United States. If the opinion as it has once been expressed by His Majesty's Government were sound, that there may be instances where a person of foreign birth might, under the laws of the United States, be made a citizen of the United States without the concurrence of his own will, the case of Mileo clearly does not belong to that category. That the conditions in his case were all fulfilled before his return to Italy which entitled him to be regarded in Italy, according to her strictest standard of decision, a citizen of the United States, there can be no shadow of doubt. Nicolino Mileo is a citizen of the United States by his own competent act.

The position of the United States with reference to the treatment of a naturalized American citizen returning to the country of his origin was perspicuously stated by Mr. Faulkner, the American minister to France, in 1860, when he wrote:

"The doctrine of the United States is that the naturalized immigrant can not be held responsible, upon his return to his native country, for any military duty the performance of which had not been actually demanded of him prior to his immigration. A prospective liability to service in the army is not sufficient. The obligation of contingent duties depending upon time, sortition, or events thereafter to occur is not recognized. To subject him to such duty it should be a case of actual desertion or refusal to enter into the army after having been actually drafted in the service of the government to which at the time he owed allegiance."

It would seem that the words employed by the Italian civil code which have been frequently emphasized, that "loss of citizenship does not exempt from the obligations of military service," might, consistently with approved rules of construction, be well held to be limited to cases in which the obligations had become complete before migration. Most especially should it not, as it seems to the United States, be held applicable to cases of naturalized persons whose obligations of military service were not merely inchoate when they left Italy, but in which circumstances repel the idea that at the time of migration an intent to defraud the Government of such services could have been entertained. And I can not persuade myself that any rule can exist which would impute to Nicolino Mileo (the circumstances of whose migration to America, naturalization, and return to Italy have been before related) such fault that he could be regarded as having been justly subjected, on his return to his native country, to immediate arrest and to the ignominious punishment applied to deserters from the Italian army.

The Government of the United States views with concern any invasion of what it deems to be the rights of its naturalized citizens. It seeks jealously to protect those rights. Nor can it be accused of having given its countenance to any methods designed to diminish the effective means of military defense of any state. How ready it has been to prevent the process of naturalization from being fraudulently perverted to such ends has been shown by the provisions of some of its recent treaties, especially those with Belgium and Austria-Hungary, treaties which, in return for a relinquishment of practices which imposed unjust hardships upon its naturalized citizens, contain provisions so effective for putting an end to evils which it is understood His Majesty's Government seeks to terminate as to be completely satisfactory to the powers which united therein.

I avail myself, etc.,

[Inclosure 2 in No. 114.—Translation.]

Signor Damiani to Mr. Dougherty.

MINISTRY OF FOREIGN AFFAIRS,
Rome, August 22, 1890.

MR. CHARGÉ D'AFFAIRES: As soon as I received from your legation the esteemed note of June 23 last, my first care was to verify, through the ministries of the interior and of war, and clearly determine the facts for which, on the assertions of Nicolino Mileo, the American Government has thought to claim.

I am now able to reply, with a simple exposition of the circumstances of fact, to the considerations advanced in the said note.

And, to proceed in the same order followed by your legation, I will state, first of all, that it is not exact that Nicolino Mileo came back to Italy with a wife born in New York and an American citizen; for the wife, named Casale Maria Gaetana, married to him in America, is a native of Spinoso; but what is then absolutely unfounded is the pretended surveillance of which she had been made the object at Spinoso and the opposition she had met to her going back to America. No authority had any motive or faculty to oppose the desire of Mrs. Mileo to return to join her husband; and this is so true that, with a regular passport issued to her by the royal prefecture of Potenza on May 6 last, she embarked the 31st of the same month for New York, together with a child named Lucy Mileo, born at Spinoso the 13th of December, 1889.

As for what concerns the military duties of Mileo, such duties arise from the explicit regulations of the Italian law, which do not exempt from military service anyone who has lost or voluntarily relinquished citizenship.

It is superfluous that I call your attention to the fact that in 1884, when Mileo acquired American citizenship, he had reached the age of 23 years, and he was already guilty of contumacy (*renitenza alla leva*) of the draft of those born in 1860; therefore, when he arrived in Italy and presented himself voluntarily (*spontaneamente*) to the enlistment bureau (*consiglio di leva*) in Potenza, in the session of May 22, 1889, he was declared able-bodied and enrolled in the first category. Assigned to the Eighty-sixth Regiment Infantry, he reached the residence of the corps on the 27th of the same month, staying there until the 15th of the following November, when, having obtained a 15-days' leave, he went to Naples, whence he fled clandestinely to the United States of America.

The military tribunal of Alessandria condemned him then in contumacy, by a sentence of April 2 last, to 18 months of military confinement for the crime of desertion with appropriation of articles of equipment.

It will therefore be seen how unfounded are the assertions of Mileo as to his ill treatment, as to his incarceration and his escape from the prisons of Alessandria, as to his flight from Genoa, and as to his having been obliged to go first to Zanzibar in order to reach the country of his adoption, for about 20 days later, say about December 12, 1889, he disembarked at New York.

The only punishment inflicted upon Mileo before the fact of his desertion was that of 1 month's imprisonment for the offense of *renitenza*, which he would only have been obliged to serve at the period of the conclusion of his discharge on unlimited furlough—a comparatively slight punishment, which was accorded him precisely because he had voluntarily presented himself.

It being specious, I would have nothing to add in answer to the argument which excludes the obligation of Mileo while a minor, and which demonstrates the validity of the act by which he, when an adult, freely made the choice of American citizenship.

When he had reached the age of the conscription, Mileo should not have been ignorant of his duties (*ignorantia legis neminem excusat*), nor should he have declined an obligation which is born with each citizen, and which, by article 12 of the Italian code, keeps him subject to military service despite the acquisition of a new nationality, which he had moreover acquired when he already was guilty of *renitenza*.

Nor, in resolving a question of positive right, and which has the sanction of nearly all the European nations, avails the opinion, however respectable, of Mr. Faulkner; for, if to this conforms the doctrine professed by the United States, we should find ourselves confronted by a conflict of legislation, adjustable only in virtue of international treaties such as do not at present exist between the two countries.

It is useful for me, moreover, to show that without the formality of the oath, which Mileo could not take because he was a fugitive (*renitente*) and residing abroad, he was effectively inscribed on the conscription list of the Kingdom, and, in fact, enrolled; so that, even according to the principles enunciated by Mr. Faulkner, he was fully responsible for the infraction committed against the laws of his own country of origin.

Accept, etc.,

DAMIANI,
Undersecretary of State,

Mr. Wharton to Mr. Dougherty.

No. 79.]

DEPARTMENT OF STATE,
Washington, September 19, 1890.

SIR: Your dispatch No. 114 of the 1st instant, in relation to the case of Nicolino Mileo, has been received.

The reply of Signor Damiani, under secretary of state, to the representations Mr. Porter was directed to make in respect to the imprisonment inflicted on Mileo and the obstacles encountered by Mileo's wife in seeking to quit Italy has been read with interest. It is observed that Signor Damiani, while declaring the assertions of Mileo "unfounded" as to his ill treatment and incarceration, admits that prior to his desertion he underwent 1 month's imprisonment at Alessandria for the offense of *renitenza*. This was, in fact, the incarceration complained of, and preceded, as Mr. Porter's note distinctly shows, the 5½ months of military service in the Eighty-sixth Regiment. It is not, therefore, clearly seen how the allegation in this regard is unfounded. This Government can not but regard such punishment as harsh and inequitable when imposed on a citizen of a friendly state who quitted the Kingdom of Naples while a child of 10 years and long before military service could accrue. In the relation of states a practice has become established—and is in some instances defined and confirmed by convention—by which military punishment is only inflicted for desertion after actual enrollment in the ranks. Delinquency after being enrolled in the lists of persons from whom, by subsequent process of conscription, the ranks may be recruited (in a word, contumacy) is very generally regarded as not entailing punishment for desertion; and the practice of Italy to so punish it, as announced by Signor Damiani, is exceptional so far as our experience goes. We are not unmindful of the fact that Signor Damiani rejects the usage to which we appeal, because not confirmed by international treaty; neither are we unmindful of the circumstance that the United States have for many years urged Italy to conclude a treaty in regulation of this state of things, concerning which we have so frequent cause to remonstrate. To claim a naked right in virtue of the nonexistence of a treaty does not meet the patient and friendly expostulations of this Government, nor can such a claim induce us to desist from urging that the rights of citizens of either in the jurisdiction of the other should be defined as befits the long-existing amity of the two countries.

Signor Damiani declares to be absolutely unfounded the pretended opposition encountered by Mrs. Mileo to her going back to America. "No authority," he says, "had any motive or faculty to oppose the desire of Mrs. Mileo to return to join her husband; and this is so true that, with a regular passport issued to her by the royal prefecture of Potenza on May 6 last, she embarked on the 31st of the same month for New York, together with a child named Lucy Mileo, born at Spinoso the 13th of December, 1889."

This Department is much gratified to possess this confirmation of its conviction that the Italian Government could not intend to hold Mileo's wife as a hostage for her deserting husband's return. The late date, however, at which Mrs. Mileo's passport was granted by the prefecture at Potenza does not appear to be wholly inconsistent with the statement that her repeated endeavors—begun before the birth of her child—to obtain permission to depart had met with refusal from the authorities of Spinoso.

The allegation that Mrs. Mileo's application for a passport had been

denied is contained in the affidavit of Nicolino Mileo, executed at New York, January 7, 1890, 4 months before the permission was actually accorded; and for this delay Signor Damiani's note suggests no explanation—an omission which he will doubtless cheerfully make good.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Porter to Mr. Blaine.

No. 134.]

LEGATION OF THE UNITED STATES,
Rome, November 7, 1890. (Received November 20.)

SIR: An opportunity has not existed until yesterday since the receipt of your dispatch No. 79 of the 19th of September to have an interview with Mr. Damiani respecting the case of Mileo.

I was somewhat surprised to find him quoted in your dispatch as having admitted that prior to Mileo's desertion, Mileo had undergone a month's imprisonment at Alessandria for the offense of *renitenza*, and I therefore immediately referred to the clause in his note which was supposed to contain the admission and sought to find a copy of the translation which Mr. Dougherty, while in charge of the legation, transmitted to you. Unfortunately, however, no copy had been preserved. On referring to the original, I found that Mr. Damiani had said that Mileo had been sentenced to suffer a month's imprisonment for the *renitenza*, which was, however, not to be inflicted until the period of his becoming entitled to "unlimited leave," and that Mileo having effected an escape before that time arrived, no punishment had, in fact, been undergone.

In order that if any doubt could exist regarding the meaning of the clause it should be resolved, I took with me Mr. Damiani's note and invited his attention to the passage. He repeated that it meant that there had been no infliction of punishment, because the time when the sentence was to be executed had not arrived when Mileo deserted from the army.

It is proper to add that the Italian Government denies that any obstacles were at any time interposed to the departure of Mrs. Mileo to the United States.

I shall follow the interview with Mr. Damiani by a note expressing regret that the overtures repeatedly made to enter into treaty stipulations with Italy similar to those negotiated with several other powers by the United States, in order to prevent a renewal of the irritating questions presented in cases having a likeness to that of Mileo, have not met with any favorable response, and expressing an earnest sense of disappointment that some common ground of agreement can not be reached.

I am, etc.,

A. G. PORTER.

Mr. Blaine to Mr. Porter.

No. 99.]

DEPARTMENT OF STATE,
Washington, November 26, 1890.

SIR: I have received your No. 134 of the 7th instant, reporting your conversation with Mr. Damiani in regard to the case of Nicolino Mileo, from which it appears that the Department misunderstood an ambiguous

passage in Mr. Dougherty's translation in his No. 114 of September 1 last of Mr. Damiani's note.

On reëxamination it is found that the passage is capable of the interpretation that the sentence to 1 month's imprisonment for *renitenza*, was not to take effect until the expiration of the term of Mileo's active service should have entitled him to unlimited leave.

So much of the Department's instruction No. 79 of September 19 last as rests on this erroneous impression may be deemed canceled.

I inclose a copy of Mr. Dougherty's translation* of Mr. Damiani's note of August 22, last.

I am, etc.,

JAMES G. BLAINE.

CORRESPONDENCE WITH THE LEGATION OF ITALY AT WASHINGTON.

Baron Fava to Mr. Blaine.

[Translation.]

Urgent.]

LEGATION OF ITALY,
Washington, March 19, 1890. (Received March 19.)

MR. SECRETARY OF STATE: I have the honor to send you herewith two letters rogatory, accompanied with English translations; one of these letters is addressed to the competent judicial authorities of New York and the other to the competent judicial authorities of Wilkes Barre, Luzerne County, Pa., by the chamber of indictments of the court of appeals of Catanzaro, Italy.

These two letters rogatory have reference to the trial, in Italy, of Vincenzo Villella and Giuseppe Bevivino, whose case is referred to in Count Foresta's two notes of July 8 and August 13, 1889.

Begging you, Mr. Secretary of State, to be pleased in the interest of justice to expedite the transmission to this royal legation of the documents called for by these letters rogatory, I think it proper for me to inform Your Excellency that I am authorized to pay, if necessary, any expenses that the American judicial authorities may be obliged to incur in complying with the requests of the court of appeals at Catanzaro.

Offering you my warmest thanks in advance,

I avail myself, etc.

FAVA.

Mr. Blaine to Baron Fava.

DEPARTMENT OF STATE,
Washington, March 21, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, in which you inclose two letters rogatory, accompanied with English translations. These letters, which relate to the trial, in Italy, of Giuseppe Bevivino and Vincenzo Villella, who are charged with most atrocious murders in the United States, are respectively addressed by the chamber of indictments of the court of appeals of

* See inclosure 2 in No. 114, page 551.

Calabria, Italy, to the competent judicial authorities of Wilkes Barre, Luzerne County, Pa., and the competent judicial authorities of New York.

I have caused these letters to be transmitted, respectively, to the governor of Pennsylvania and the governor of New York for such action as they may find themselves able to take.

While pursuing this course, in order that justice may not, if possible, be entirely defeated in the case of the two criminals in question, I take this opportunity to advert to the fact that this Government demanded their surrender more than a year ago under the stipulations of the existing treaties between the United States and Italy. The Italian Government declined to surrender the fugitives, on the ground that they were Italian subjects. The treaties, however, require the surrender of persons generally and make no exception in favor of citizens or subjects, and I therefore deem it my duty, while transmitting the letters rogatory to the authorities of the States of Pennsylvania and New York, to reserve the right, which this Government thinks that it possesses, to have the fugitives surrendered for trial in the place where their offenses were committed.

Accept, etc.,

JAMES G. BLAINE.

Baron Fava to Mr. Blaine.

[Translation.]

ROYAL LEGATION OF ITALY,
Washington, April 20, 1890. (Received April 23.)

MR. SECRETARY OF STATE: The note which you did me the honor to address to me on the 21st ultimo contains two points. The first has reference to compliance with the two letters rogatory which I addressed to you on the 19th ultimo, relative to the trial in Italy of Bevivino and Villella, and the second to the extradition of these two Italian subjects, which has been asked for by the United States Government.

As regards the first point, you are pleased to state that, with a view to preventing, if possible, the ends of justice from being wholly defeated in the case of the two criminals in question, you have sent the two aforesaid letters rogatory to the governors of the States of Pennsylvania and New York for such action as they may think proper. While thanking you for this information, I beg you to permit me to remark, Mr. Secretary of State, that it is for the very purpose of preventing the ends of justice from being in any way defeated, and in order that justice may be more fully administered (this point can not be contested), that Bevivino and Villella are now imprisoned in Italy, so that they may answer, before the courts of their country, for their complicity in the murder committed by Michele Rizzolo, and that the chamber of indictments of the court of appeals at Catanzaro is now expecting to receive from the courts of the United States the documents which it asked for by the letters rogatory in question. In this connection, I must even renew my request that you will use your good offices in order to accelerate, so far as possible, the transmission of the said documents to this royal legation. It is highly important that Bevivino and Villella, who have been in prison for a year, should be speedily tried; and it only depends upon the American judicial authorities to hasten their trial by promptly transmitting these documents.

In the second part of the note to which I am now replying Your Excellency is pleased to remind me that the United States Government, in pursuance of the treaty existing between the two countries, applied more than a year ago for the extradition of Bevivino and Villella, and that the Royal Government refused to surrender these two persons on account of their Italian nationality. Your Excellency adds that the treaty contains no exception in favor of Italian subjects or American citizens, but that it permits the extradition of all persons in general, and that consequently, while you transmit the aforesaid letters rogatory to the authorities of the State of Pennsylvania and New York, you must reserve the right, to which you consider the United States Government entitled, to secure the extradition of Bevivino and Villella, in order that they may be tried in the country in which they committed the crime.

It is wholly unnecessary for me to remind Your Excellency that this question has been discussed at length and entirely settled by the royal ministry of foreign affairs and the United States legation at Rome.

Mr. Stallo must have informed the honorable Department of State that, according to Italian law, no citizen can be removed from the jurisdiction of his natural judges, that is to say, from that of the judges of his own country; and that, although an exception is naturally made to this principle when a citizen who has committed a crime in a foreign country is arrested in that country, it nevertheless resumes its force when the same citizen returns to his country. The new Italian penal code, in its ninth article, as well as the former code in its fifth and sixth articles, are equally explicit on this subject. They solemnly declare that "the extradition of a citizen is not admissible."

This system, which has been adopted by a majority of the nations of Europe, and the object of which is, not to alter the personal penal status of the citizen, has, during the past 50 years, been most thoroughly examined by writers on international law. All publicists agree in admitting that this principle now forms a part of public law, in virtue of which the governments of continental Europe never grant the extradition of their own subjects.

This principle, moreover, has not only become part of the public law of Europe, but it has, I am happy to say, been recognized by the United States Government itself in the extradition treaties which it has concluded with Austria-Hungary (article 2), the Grand Duchy of Baden (article 2), Bavaria (article 3), Belgium (article 5), the Republic of Haiti (article 41), Mexico (article 6), the Netherlands (article 8), Turkey (article 7), Prussia (article 3), and with it the German Empire, in virtue of accession by subsequent treaties, Spain (article 8), Sweden and Norway (article 4), and Salvador (article 5).

In view of the explicit provisions of the Italian law, and of the practical recognition of this principle of universal public law on the part of the governments of Europe and that of the United States, it can not be claimed, on the ground of the lack, in the treaty between Italy and the United States, of an express reservation in favor of natives of the two countries, that Italy has renounced a doctrine which is based, not only on her own laws, but also on her own public law. If the negotiators of the extradition treaty of 1868 had wished to abrogate this universally accepted doctrine, which has been especially adopted by the two contracting parties, they would certainly, in consideration of its gravity and importance, have stated that fact in a formal declaration, adding

to the words of the first article of said treaty the following clause: "without excepting their respective citizens."

Under these circumstances, the Government of the King is perfectly justified in declaring, as it has already done, that neither the spirit of the Italian law, nor even the text of the treaty invoked by Your Excellency, would permit it to comply with the request which has been made for the extradition of the Italian subjects Bevivino and Villella.

There is no ground whatever for the inference, from the foregoing, that the guilty parties would, for that reason, escape punishment for the crime committed by them. Any insinuation on this subject would be out of place, since it is a notorious fact that the Italian magistrate at once recognized his own competency; that he immediately proceeded to arrest the accused parties, who are now in prison; and that he commenced a regular judicial action against them without delay. That judicial action would have terminated by this time if the courts of Pennsylvania had promptly complied with the request of the Italian judicial authorities, who requested them, early in 1889, to forward the papers in the principal case, which was closed in the United States by the sentence of Michele Rizzolo to capital punishment.

The United States legation at Rome has been very fully informed of the contents of the present note, and it is only to answer the objections which the United States Government has now thought proper to make to the course pursued by the Royal Government in this matter that I have had the honor to repeat to Your Excellency the considerations to which the King's Government did not fail at the proper time to call Mr. Stallo's attention.

Be pleased to accept, etc.,

FAVA.

Baron Fava to Mr. Blaine.

[Translation.]

ROYAL LEGATION OF ITALY,
Washington, June 5, 1890. (Received June 7.)

MR. SECRETARY OF STATE: Referring to my note of the 20th of April last, I have the honor again to appeal to Your Excellency's kindness, begging you to be pleased to expedite, as much as possible, the transmission of the papers asked for by the two letters rogatory addressed by the court of appeals at Catanzaro to the United States courts in the interest of the prosecution, in Italy, of Villella and Bevivino.

I need not remind Your Excellency of the great importance which my Government attaches, in the interest of justice, to having these two persons, who have been in prison for a year, tried by the Italian courts for the crime of complicity in the murder committed by Rizzolo.

Begging you, therefore, Mr. Secretary of State, to be pleased to enable me speedily to forward the documents in question to the Royal Government, which earnestly desires to receive them, I thank you in advance, and

I avail myself, etc.,

FAVA.

Mr. Blaine to Baron Fava.

DEPARTMENT OF STATE,
Washington, June 13, 1890.

SIR: As I have heretofore had the honor to inform you, I sent the letters rogatory, designed to elicit the testimony of certain persons in the city of New York in relation to the cases of Villella and Bevivino, to the governor of the State of New York.

I am now in receipt of a communication from him, dated the 10th instant, with which he returns the papers and refers to sections 914 and 915 of the code of civil procedure of that State, defining the manner in which a party to an action, civil or criminal, pending in a foreign court may obtain the testimony of a witness within the State to be used in such action. In order that the present letters may be executed in accordance with the sections which he points out, the governor of New York advises that they be referred to the United States district attorney for the southern district of New York, or to the Italian consul at New York city, at whose instigation the desired depositions may be taken under the provisions of the code.

The Department is of opinion that the surer and, perhaps, the speedier way of obtaining the execution of the letters is to send them to the Italian consul at New York city, who, in instigating action on the part of the local authorities, may be able, also, to assist them with any information that may be desired respecting the proceedings in Italy in which the letters have been issued. Consequently, I have the honor to return the papers herewith. It is proper to say that it is very seldom that an application is made for the execution in this country of letters rogatory in a criminal suit pending in a foreign country.

In this relation, I take occasion to acknowledge the receipt of your note of the 5th instant, in which you again point out the fact that the present letters rogatory, as well as those addressed to the authorities in Pennsylvania, have not been executed. The matter has been recalled to the attention of the governor of that State.

Accept, etc.,

JAMES G. BLAINE.

Baron Fava to Mr. Blaine.

[Translation.]

ROYAL LEGATION OF ITALY,
Washington June 16, 1890. (Received June 17.)

MR. SECRETARY: I have the honor to acknowledge receipt of the letter of the 17th instant, by which Your Excellency has had the kindness to make known to me the response of the governor of New York in the matter of the commission rogatory relative to the procedure instituted in the Kingdom against the two subjects of the King, Villella and Bevivino.

In view of the great importance which the Government of the King attaches to the prompt settlement of this affair, I can not but regret the delay interposed by the governor of New York in the response which Your Excellency has kindly communicated to me with a promptness for which I hasten to thank you, at the same time expressing the hope that the governor of Pennsylvania will, in his turn, make known without delay the decision at which he has arrived with regard to the execution of the commission rogatory in the latter State.

Agreeably to the advice in the letter of Your Excellency, I have to-day brought the affair before the royal consulate-general at New York, instructing it to initiate promptly the necessary procedure before the competent judicial authority, with a view to obtaining, with the least possible delay, the execution of the commission rogatory referred to.

Be pleased to accept, etc.,

FAVA.

Mr. Blaine to Baron Fava.

DEPARTMENT OF STATE,
Washington, June 23, 1890.

SIR: I have had the honor to receive your note of the 20th of April last, in relation to the cases of the two Italian subjects Bevivino and Villella, who, having committed murders in the United States of a most aggravated and atrocious character, have sought asylum in their own country, which has refused to comply with the demand of this Government, based upon treaty, for their extradition. The immediate occasion of your note was the reply made by me to your request for the execution in this country of letters rogatory issued by a court in Italy, before which the two fugitives have been arraigned for trial, under Italian law, for the crimes committed in the United States. In that reply I stated that, with a view to preventing, if possible, the total defeat of the ends of justice in the cases in question, I would forward the letter to the governors of the States of Pennsylvania and New York for such action as they might find it proper to take, the letters being respectively addressed to the authorities in those States. At the same time I took occasion to reserve what I regarded as the clear right of the Government of the United States, under the treaty with Italy, to require the delivery of the fugitives for trial in this country.

In answer to this you remind me that this question has been discussed at length and entirely settled by the royal ministry of foreign affairs and the United States legation at Rome; that Mr. Stallo, lately the minister of the United States to Italy, must have informed this Department that, according to Italian law, no citizen can be removed from the jurisdiction of his natural judges, the judges of his own country; and that, although an exception is made to this principle when a citizen who has committed a crime in a foreign country is there arrested, it nevertheless resumes its force when he returns to his own country. You also state that the new Italian penal code expressly forbids the extradition of Italian subjects, and declare that this principle now forms a part of public law, which the United States has recognized in many of its treaties. For these reasons you argue that, "if the negotiators of the extradition treaty of 1868 had wished to abrogate this universally accepted doctrine, which has been specially adopted by the two contracting parties," they would certainly "have stated the fact in a formal declaration, adding to the words of the first article of the said treaty the following clause: 'without excepting their respective citizens.'" Under these circumstances, you contend that neither the spirit of Italian law, nor even the text of the treaty, would permit the Italian Government to comply with the request for the surrender of Bevivino and Villella.

From this conclusion I should not dissent if I could accept the arguments upon which it is based. I find myself, however, wholly unable to accept those arguments.

In the first place, I may be permitted to observe that we are not discussing a question of Italian law, but an international compact between the United States and Italy. In this relation it can not be regarded as conclusive—if, indeed, it is at all pertinent—to quote the Italian municipal law, to say nothing of the provisions of the new penal code adopted 20 years after the conclusion of the treaty. If the decision of the question be put upon the municipal law of the contracting parties, this Government is entitled to appeal to its own, by which no exception is made in favor of its citizens. Viewing the matter merely as a subject of statutory regulation, the surrender by the United States of its citizens is entitled to as much weight as the refusal of Italy to pursue the same course with respect to Italian subjects.

You are correct in your supposition that Mr. Stallo informed the Department of the provisions of Italian law on the subject, but the Department is surprised to learn that the Government of Italy entertains the impression that the question was settled by the royal ministry of foreign affairs and the United States legation at Rome. In various interviews with the royal ministry of foreign affairs reported by him to the Department, as well as in formal communications addressed to that ministry, Mr. Stallo protested against the position of the Italian Government; and the Department is not informed of anything said or written by him that savored of acquiescence. Mr. Stallo's personal views were very strongly adverse to the position ultimately taken by the royal ministry, and in those views he was supported by the instructions of the Department. The Department is therefore by no means inclined to regard the question as settled. It is thought that it would be a dangerous precedent to admit that a nation may determine its conventional duty by its own statutes. And for this reason, among others, the Government of the United States, being clearly of opinion that it is entitled to the extradition of Bevivino and Villella under the treaty of 1868, is unable to relinquish its claim in response to any of the arguments which have been brought against it.

In order to understand the present controversy, it is necessary to revert to its origin. It did not arise in the cases of Villella and Bevivino, but in that of Salvatore Paladini, whose extradition Mr. Stallo, on May 17, 1888, demanded of the Italian Government on a charge of passing counterfeit money of the United States, for which Paladini was under indictment in the district court of the United States for the district of New Jersey. It being important to secure the arrest of the fugitive without delay, Mr. Stallo delivered the requisition to Mr. Crispi in person and called his attention to the urgency of the matter. Mr. Crispi promised to refer it immediately to the ministry of grace and justice and asked no question as to the fugitive's citizenship. Mr. Stallo heard nothing more of the case until the 2d of June, when he received a letter from the foreign office stating that his application had been communicated to the ministry of grace and justice without the least delay, but that it was important to know of what country Paladini was a native and what were his paternity and his citizenship. This inquiry was made for the first time nearly 2 weeks after the date of the application. On the same day Mr. Stallo replied that Paladini was a native of Messina, in Sicily, and had never been naturalized as a citizen of the United States, having been in that country only a few months before committing the crime imputed to him. To this note no reply was made; and on June 25, 1888, Mr. Stallo addressed another note to Mr. Crispi, calling attention to the fact that he had not been advised whether the warrant of arrest asked for on the 17th of May had been issued or

whether any steps towards Paladini's arrest had been taken. On July 2 Mr. Damiani, the undersecretary of state, replied that the minister of grace and justice had communicated the facts to the ministry of the interior, which had taken the steps necessary to the fugitive's apprehension. On July 7 Mr. Damiani wrote again to the effect that the royal prefecture in Messina, to which place Paladini had returned, was unable to find him and believed that he had gone back to the United States. Of this note Mr. Stallo acknowledged the receipt on the 14th of July, and at the same time requested the return of the papers which he had submitted to the foreign office 2 months previously in support of his demand for Paladini's surrender. In order, however, that there might be no room for misconstruction of his action, he adverted to the question of citizenship and observed that in his note of May 17 and the documents accompanying it there was no reference to Paladini's nationality, for the reason that the treaty of 1868 made no distinction between citizens of the contracting parties and other persons. On July 26 Mr. Stallo had an interview with Mr. Crispi, in which the latter took the ground that the treaty did not require the surrender of citizens, and also asserted his impression that there was an express reservation on the subject. Mr. Stallo replied that he was quite fresh from his reading of the treaty, and that Mr. Crispi's impression was erroneous. On the following day Mr. Stallo addressed to Mr. Crispi an elaborate argument, showing that the treaty contained no exception as to citizens, and saying, among other things, that since the middle of the present century no state had assumed the right to refuse the extradition of its subjects charged with the commission of crime abroad, unless the treaty under which the surrender was demanded contained a clause justifying such refusal.

On July 27 the minister of foreign affairs replied, saying, among other things, that the ministry of grace and justice, which had been consulted, was of opinion that in the present state of the case the question of citizenship need not further be discussed, for the reason that, according to the rules which governed extradition in Italy, it was necessary to hear in each case, first, the opinion of the crimes section of the court of appeals in the district in which the arrest was asked for (articles 853 and 854 of the code of criminal procedure); second, that of the council of state on the question whether the demand for extradition was conformable to the stipulations of the convention (article 8, No. 2, of the law of March 20, 1865). Paladini not being under arrest, a decision of those tribunals could not be asked. After the receipt of this note Mr. Stallo learned that Paladini had been arrested at Messina. He at once saw Mr. Crispi, who said, that in his judgment, it was not necessary at the moment to determine whether an Italian subject could be surrendered, inasmuch as that question would be decided by the court at Messina, before which Paladini would be brought. He added that his interpretation of the treaty of 1868 had been based upon the circumstance that the law of Italy prevented the extradition of Italian subjects for crimes perpetrated in foreign jurisdictions, the crimes committed by them being justiciable by the Italian courts. Mr. Stallo replied that he supposed that in Italy, as elsewhere, treaty obligations were a part of the law of the land, so that in the end they were brought back to the question of Italy's obligation under the treaty. Subsequently an extended correspondence took place, Mr. Stallo maintaining the duty of surrender and the foreign office denying it. It is proper to notice that in a note of August 28, transmitted to the foreign office August 30, 1888, Mr. Stallo adverted to the fact that the demand for Paladini's surren-

der was made on May 17, and that, notwithstanding the evident Italian character of his name, for more than 2 weeks nothing was said about his nationality. Mr. Stallo also observed that in his note of June 2 he distinctly informed the minister of foreign affairs that Paladini was an Italian subject who had never been naturalized in the United States; but, notwithstanding this distinct notice, none of the communications addressed to him by the Italian foreign office thereafter contained a hint that Paladini could not be extradited because he was an Italian subject, and that it was not until the interview of July 26 that this claim was first advanced. From this fact, coupled with the circumstance that all this time and for more than 2 months the American agent had waited in Italy to receive Paladini upon his arrest and extradition, as the Italian authorities well knew, the inference would seem to be not only legitimate, but irresistible, that for 2 months and several days at least the view taken by the Italian Government of its duty under the treaty of 1868 was the same as that held by the United States.

On August 30, 1888, Mr. Damiani returned the President's warrant to Mr. Casale, the agent of the United States, to the legation without any comment. On the following day Mr. Dougherty, secretary of the legation, acknowledged its receipt and inquired whether, by the return of the warrant, he was to understand that the Government of His Majesty the King of Italy refused to extradite Paladini.

On October 25 Mr. Crispi, more than 5 months after the original demand, announced that, according to the Italian procedure, the minister of grace and justice had submitted the demand to the successive examination of the criminal section of the court of appeals of Messina, of the council of state, and of the council of ministers, and that they were unanimously of opinion that Paladini should not be extradited, for the reason that he was an Italian subject. This opinion, he said, was based upon certain principles, which he stated. It is unnecessary to recount them, since they are the same, in almost the same language, as those set forth in your note.

In January, 1889, the Department received from Governor Beaver, of Pennsylvania, information that two Italians named Vincenzo Villella and Giuseppe Bevivino, charged with the commission of atrocious murders in Luzerne County, Pa., had taken refuge in Italy. The Department at once telegraphed information of the facts to the legation at Rome. Mr. Stallo saw the minister of foreign affairs, and, laying the facts before him, was assured that measures would at once be taken for the arrest of the accused and for their eventual trial in Italy as soon as he could give their names, which he was at the time unable to do, owing to a confusion in the telegrams.

On January 30, 1889, Governor Beaver made a formal request that the extradition of the fugitives be demanded. He had been informed of the attitude of the Italian Government in the case of Paladini, but, because of the importance of inflicting punishment upon the criminals in Pennsylvania, and influenced by an opinion which, he had been informed, had been expressed by the Italian consul at Philadelphia to the effect that the fugitives would be given up, he asked the Department to endeavor to obtain their surrender. A President's warrant was accordingly issued to John R. Saville and Frank P. Dimaio, the persons designated by Governor Beaver to receive the fugitives, and Mr. Stallo was so informed. These agents, Mr. Stallo was also informed, would take with them authentic proof of the guilt of the fugitives and upon arriving in Italy would proceed at once to Rome to consult with

him. Meanwhile he was to ascertain whether the extradition of the fugitives could be obtained and to apply to the Italian Government for that purpose.

On February 20 Mr. Stallo acknowledged the receipt of the papers, which he transmitted to the foreign office with an application for the fugitives' surrender, coupled with an expression of the earnest desire of the United States that the determination in the Paladini case should be reconsidered. Mr. Stallo also called attention to the fact that the principal witness against the two fugitives was their accomplice, Michele Rizzolo, who was under arrest at Wilkes Barre, in Pennsylvania, and had made a full confession, and that it was impracticable to bring this witness, either before or after his trial, to Italy in order to testify before an Italian court.

On the 7th of March Mr. Stallo inclosed to the Department a note from Mr. Crispi, bearing date of the preceding day, in which the surrender of the fugitives was refused. The reasons given were the same as those stated in the case of Paladini.

It was in view of the total divergence of opinion between this Government and that of His Majesty, developed in the preceding correspondence, that I deemed it necessary to make the reservation contained in my note of the 21st of March last. I shall now endeavor to show that that reservation was not only justified, but also required, by the circumstances.

I do not understand the Italian Government to deny that the provisions of the treaty of 1868, if not obstructed by any municipal statute or qualified by any principle of international law, would oblige the contracting parties to deliver up their citizens. Indeed, I assume this to be admitted. The treaty says that the two Governments mutually agree to deliver up "persons who, having been convicted of or charged with the crimes specified in the following article committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other." As the term "persons" comprehends citizens, and as the treaty contains no qualification of that term, it is unnecessary to argue that the treaty standing alone would require the extradition by the contracting parties of their citizens or subjects.

I shall also assume it to be admitted by the Italian Government that the parties to a treaty are not permitted to abridge their duty under it by a municipal statute. It is true that the authorities of a country may, by reason of such a statute, find themselves deprived of the power to execute a treaty. But if, in obeying the statute, they violate or refuse to fulfill the treaty, the other party may justly complain that its rights are disregarded and may treat the convention as at an end. Hence, in appealing to its statutes to justify its action in the present case, I understand the position of the Italian Government to be that those statutes are merely declaratory of the law by which nations are bound to be governed in their dealings one with another.

We are brought, therefore, to the consideration of the question whether the refusal of the Italian Government to deliver up Paladini, Vilella, and Bevivino, under the treaty of 1868, is justified by the principles of international law. The answer to be given to this question must be decisive of the matter.

It is stated—and the statement has the sanction of the eminent Italian publicist Fiore—that the refusal to surrender citizens had its origin in the practice of extradition by France and the Low Countries in the eighteenth century. Formerly such an exception was not recognized,

Even the Romans, who were not wanting in a disposition to assert their imperial prerogatives, did not refuse to deliver up their citizens, their *feciales* being invested, in respect to states in alliance with Rome, with authority to investigate complaints against Roman citizens and to surrender them to justice if the complaints were found to be well grounded. The exception of their citizens by France and the Low Countries originated in the following manner :

The two countries practiced extradition, not under a convention, but under independent declarations of a general character. By the Brabantine Bull, issued by the German Emperor in the fourteenth century, subjects of the Duke of Brabant enjoyed the privilege of not being withdrawn from his jurisdiction. A similar privilege was gradually extended by law and usage to other subjects of the House of Austria, while the Low Countries were still under its dominion. In consequence of the establishment of this rule, the Low Countries refused to deliver up their subjects, and France, as an act of retaliation, refused to surrender Frenchmen. Thus, not in recognition of any principle, but merely with a view to observe a strict reciprocity, was the precedent first established.

That the example thus set has generally been followed by European states is not to be questioned ; for, with the single exception of England, it is believed that they have adopted the rule of refusing to deliver up their citizens. But, in order to determine the force and effect of this rule from the point of view of international law, it is necessary to inquire how it has been secured and enforced. Where no treaty exists, the subject is simple. It is generally agreed that, in the absence of a convention, extradition is a matter of comity, and not of positive obligation. In such case, each nation is free to regulate its conduct according to its own discretion. If it declines to surrender its citizens, its action, though detrimental to the interests of justice, does not afford ground for complaint or pressure, since it is acting within its right. But, where the subject is regulated by treaty, the case is different. What before was a matter of comity and discretion, becomes a matter of duty, and the measure of that duty is the treaty. It is not strange, therefore, that, in order to avoid the obligation to extradite their citizens, the states of Europe have industriously inserted in their treaties an express stipulation to exempt themselves from that obligation. With respect to those who are to be surrendered, they usually employ, as is done in the treaty between the United States and Italy, the general term "persons." Having used this term, they then proceed to insert a clause to except their citizens from the general obligation ; and it is by means of this clause, and not by reason of an implication created by international law, that the duty of surrender is avoided.

More cogent proof of this fact could not be found than is afforded by the extradition treaties of the United States with European nations, to which you refer for the purpose of showing that this Government has recognized the exemption of citizens by international law. Among those treaties is that with Prussia and other German states, concluded June 16, 1852, which is the first in which the United States admitted an exception of citizens. It is a part of the public history of extradition that for years the Government of the United States refused to negotiate treaties for the surrender of fugitives from justice with several of the states of Europe, because, owing to the limitations of their domestic laws, they insisted upon the insertion of a clause to exempt their citizens. It was for this reason alone that this Government, in order

to avoid the misfortune of a total lack of extradition, finally admitted the exception. Accordingly, we find in the preamble to the treaty with Prussia and other German states the following recital:

Whereas it is found expedient for the better administration of justice and the prevention of crime within the territories and jurisdiction of the parties respectively that persons committing certain heinous crimes, being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, and also to enumerate such crimes explicitly; and whereas the laws and constitution of Prussia, and of the other German states, parties to this convention, forbid them to surrender their own citizens to a foreign jurisdiction, the Government of the United States, with a view of making the convention strictly reciprocal, shall be held equally free from any obligation to surrender citizens of the United States: Therefore, etc.

This recital it is to be observed, was not a declaration by the United States alone, but by both parties, of the reason for the exclusion of citizens. The same declaration is found in the treaty with Bavaria of 1853, with Austria-Hungary of 1856, with Baden of 1857, and with various German states by virtue of their accession to the treaty with Prussia, which was, in 1868, finally extended to the whole of the North German Confederation.

In the record of the negotiation of the treaty with Italy no reference is found to the subject of citizens. What may have been said in the oral discussions can not now be discovered. It is, however, a matter of record in this Department that in the same year, 1868, Mr. Seward, who, as Secretary of State, signed the treaty on the part of the United States, refused to conclude a convention with Belgium because she insisted upon the exception of her citizens. In this relation I may advert to another fact which possesses great significance. The treaty of extradition concluded between the United States and Italy in 1868 was one of two treaties concluded between those countries in that year, the other relating to the rights and privileges of consuls. These treaties were designed to take the place of the treaties formerly made between the United States and the independent States of Sardinia and the Two Sicilies. In the treaty with the latter Government of 1855, there were stipulations relating to extradition, and among them was the following provision:

The citizens and subjects of each of the high contracting parties shall remain exempt from the stipulations of the preceding articles, so far as they relate to the surrender of fugitive criminals. (Article XXIV).

In view of the existence of this clause in the treaty with the Two Sicilies, it can scarcely be supposed that the parties to the substitutionary arrangement of 1868 negotiated that instrument in oblivion of the question as to citizens. And when we consider the omission of the clause, especially in conjunction with Mr. Seward's refusal to negotiate with Belgium, the inference seems to be morally irresistible that the obligation to deliver up their citizens, under the treaty of 1868, was fully understood by the contracting parties at the time of its conclusion.

From what has been stated I am forced to conclude, not only that international law does not except citizens from surrender, but also that it has been well understood, especially in dealing with the United States, that the term "persons" includes citizens and requires their extradition, unless they are expressly exempted.

Nor am I able to find sufficient ground for the refusal to surrender citizens in the general principles on which extradition is conducted. It does not satisfy the ends of justice to say that, although a nation does not extradite its citizens, it undertakes to try and punish them. This argument may be admitted to have great force where, by reason

of the absence of any conventional assurance of reciprocity, a nation declines a demand addressed to its discretion. But the chief object of extradition is to secure the punishment of crime at the place where it was committed, in accordance with the law which was then and there of paramount obligation. It is for this purpose that extradition treaties are made, and, except in so far as their stipulations may prevent the realization of that design, they are to be executed so as to give it full effect. It is at the place where the offense was committed that it can most efficiently and most certainly be prosecuted. It is there that the greatest interest is felt in its punishment and the moral effect of retribution most needed. There, also, the accused has the best opportunity for defense, in being confronted with the witnesses against him; in enjoying the privilege of cross-examining them; and in exercising the right to call his own witnesses to give their testimony in the presence of his judges. These and other weighty considerations, which it is not necessary to state, have led what I am inclined to regard as the great preponderance of authorities on international law at the present day to condemn the exception of citizens from the operation of treaties of extradition. In France I need only to refer to such well-known writers on extradition as Billot and Bernard. In Italy I may refer again to the eminent publicist Fiore, who says that, in spite of all that has been said on the subject, his opinion is that, while in former times the absolute prohibition against the surrender of citizens had some reason for its existence, it is insisted upon to-day rather as one of numerous conventional aphorisms, accepted without searching discussion for fear of showing too little regard for national dignity (*Traité de droit pénal int.*, section 362). I will not extend the length of this note by citing other books, but, as showing the general view of eminent publicists, will refer to two resolutions of the Institute of International Law, adopted at the session at Oxford in 1881-'82. Those resolutions are as follows:

VI. Between countries whose criminal legislation rests on like bases, and which should have mutual confidence in their judicial institutions, the extradition of citizens would be a means to assure the good administration of penal justice, since it ought to be regarded as desirable that the jurisdiction of the *forum delicti commissi* should, so far as possible, be called upon to judge.

VII. Admitting it to be the practice to withdraw citizens from extradition, account ought not to be taken of a nationality acquired only after the perpetration of the act for which extradition is demanded. (*Annuaire*, v, 1881-'82, pp. 127, 128.)

At the session at which these resolutions were adopted seventeen members and eight associates of the institute were present, including some of the most eminent publicists in Europe, and representing Italy, Germany, Austria, Belgium, Spain, France, Great Britain, Greece, Russia, and Sweden.

In view of what has been shown, I am unable to discover any ground of recouiliation of the totally opposite views entertained by the United States and Italy in regard to the force and effect of the treaty of 1868, unless the Government of Italy will reconsider its position. The present situation, therefore, seems to me to require either the denunciation of that treaty or the conclusion of new stipulations upon which the contracting parties will find themselves in agreement. If, as a part of those stipulations, citizens should be excepted, it would be essential to reach an understanding as to the effect of naturalization. These matters it is not my purpose to discuss on the present occasion, but I deem it my duty to suggest them for consideration.

Accept, etc.,

JAMES G. BLAINE.

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Baron Fava to Mr. Blaine.

[Translation.]

ROYAL LEGATION OF ITALY,
Washington, July 3, 1890. (Received July 7.)

MR. SECRETARY OF STATE: I hasten to acknowledge the receipt of the note which you did me the honor to address to me under date of the 23d ultimo, relative to the extradition of Villella and Bevivino. I at once communicated the contents thereof to His Majesty's Government.

Your Excellency will permit me at the same time to rectify an assertion contained in your note, according to which the consul of the King at Philadelphia expressed an opinion in regard to this case which was reported to the governor of Pennsylvania, and which furnished to him an additional argument for endeavoring to induce the Federal Government to secure the extradition of the two persons in question from the Royal Government.

From the very outset I was scarcely able to believe that the statement contained in Your Excellency's note could be correct, since it seemed hardly possible that a consul of the King could have expressed an opinion concerning a matter that was outside of his competence, as it formed the subject of negotiations between the two Governments. Nevertheless, in view of the importance of the source mentioned, I deemed it my duty to request the consul of Italy at Philadelphia to furnish an explanation.

This explanation is of such a nature that Your Excellency will, I think, have no difficulty in reaching the same conclusion that I have reached, viz, that Governor Beaver has been misinformed. Mr. Serra, who was in charge of the consulate at the time, had no knowledge of the case save what he had gleaned from a conversation with a detective who called at the consulate one day, and, after talking of this matter with other persons who were present, asked Mr. Serra his opinion concerning the surrender of Villella and Bevivino. The vice-consul told him in reply that he had no opinion to express, inasmuch as the question was pending between the two Governments, but that he thought that the abolition of the death penalty in Italy would constitute an almost insurmountable obstacle to the surrender of these two persons.

Such is the simple fact, which I have desired to make known to Your Excellency with the sole view of establishing the truth, and without wishing to cause the incident to appear more important than it really is.

Be pleased to accept, etc.,

FAVA.

Mr. Wharton to Baron Fava.

DEPARTMENT OF STATE,
Washington, July 29, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, in the matter of the execution of certain letters rogatory to be used in the trial of Giuseppe Bevivino and Vincenzo Villella in Italy.

On the 11th of June last a copy of your note of the 5th of that month was inclosed to His Excellency the governor of Pennsylvania for his further information and his attention particularly called to your wish that the matter might be expedited as far as possible.

Governor Beaver replied on the 16th ultimo, saying that he had lately received a letter from the district attorney of Luzerne County, where the murder with which the accused stand charged took place, indicating that he would give the subject his attention at an early date and excusing his delay on the ground of his constant engagements in court. Governor Beaver added that the district attorney had been furnished with a copy of your note, in the hope that it might serve to increase his diligence in the matter.

I have again given Governor Beaver a copy of your note of the 23d instant, and stated that the Department would appreciate any efforts he might make to expedite the execution of the letters in question.

Accept, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Wharton to Baron Fava.

DEPARTMENT OF STATE,
Washington, August 1, 1890.

SIR: In connection with the Department's note to you of the 29th ultimo, touching the execution of certain letters rogatory by the authorities of the State of Pennsylvania, I have now the honor to apprise you of the receipt of a communication written at the instance of the governor, in which it is stated that the local authorities at Wilkes Barre have been directed to immediately comply with your request.

Accept, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Baron Fava to Mr. Blaine.

[Translation.]

ROYAL LEGATION OF ITALY,
Washington, August 8, 1890. (Received August 20.)

MR. SECRETARY OF STATE: The Government of the King, to which I duly communicated the contents of Your Excellency's note of 23d of June last, has just sent me the dispatch the text of which I have the honor to inclose, together with a copy of the note referred to by the aforesaid dispatch.

It appears from these documents that negotiations were set on foot in January, 1889, between the royal ministry of foreign affairs and the United States legation at Rome looking to the adoption of an article additional to the extradition convention of 1868 between Italy and the United States, the design of which article was to prohibit the surrender of the subjects of each of the two contracting parties, and to provide, at the same time, for a convention of naturalization between the two countries which would have been rendered necessary by the new article.

As the aforesaid note of the Department of State made no mention of the negotiations in question, I hereby have the honor, in obedience to the instructions of my Government, to remind Your Excellency of them, and to inform you that my Government would be very glad to receive

a reply from that of the United States with regard to the counter propositions contained in the note addressed to Mr. Stallo under date of April 27, 1889.

Your Excellency is doubtless aware that the King's minister of foreign affairs addressed Mr. Porter, the new representative of the Republic at Rome, in relation to this matter on the 24th of May last.

Be pleased to accept, etc.,

FAVA.

[Inclosure 1.—Translation.]

Signor Damiani to Baron Fava.

ROME, July 27, 1890.

MR. MINISTER: I was not a little surprised to see that in his note of the 23d ultimo, Mr. Blaine made no reference to the negotiations which have been on foot since January, 1889, having been commenced with Mr. Stallo, with a view to the adoption of an article additional to the extradition convention of 1865 between Italy and the United States, the object of said article being the prohibition of the surrender by each state of its own subjects or citizens and the signing of a convention of naturalization by the two countries such as would be rendered necessary by the new article. These negotiations grew out of the question raised by the extradition of Salvatore Paladini, an Italian subject, which was asked for by the United States Government. With a view to avoiding any controversy in such matters in future, Mr. Stallo proposed the adoption of an article declaring that neither country was under obligations to surrender its own subjects, and, at the same time, the negotiation of a naturalization convention similar to that existing between the United States and Belgium.

The Royal Government received this proposition favorably, examined it carefully, and, on the 27th of April, 1889, addressed a note to Mr. Stallo, in which, while accepting his proposition in general, it proposed a few modifications in the draft which he had presented, which modifications were rendered indispensable by our laws; it suggested, moreover, an addition to the article relative to extradition, in order to prevent the extradition convention from being rendered ineffectual by a change of citizenship.

Under date of April 30, 1889, Mr. Stallo expressed his personal opinion that our counter propositions would meet with no serious objections at Washington, adding that he would communicate them to his Government. During the period that has elapsed since then (especially since the negotiations were initiated by Mr. Stallo exclusively), the United States Government should have been fully informed on this subject, particularly since, as I informed Your Excellency in my dispatch of the 24th of May last, I on that day requested Mr. Porter, the new representative of the United States, to be pleased to solicit a reply from his Government.

At all events, I deem it proper to transmit to Your Excellency, that you may communicate it to Mr. Blaine, a copy of the note addressed to Mr. Stallo under date April 27, 1889, wherein our views on the subjects in question are clearly set forth.

DAMIANI,
Assistant Secretary of State.

[Inclosure 2.—Translation.]

Royal ministry of foreign affairs to United States legation at Rome.

The royal ministry of foreign affairs has carefully considered the proposition addressed to it by the United States legation, concerning the addition of an article to the convention relative to extradition which is now in force between Italy and the United States, according to which article neither party is to surrender its own citizens, and also concerning the negotiation by the two States of a naturalization convention.

The Government of the King favors, in general, the adoption of these two pacts, which, however, in view of their different natures, should be perfectly distinct from each other. In relation to the draft communicated by the United States legation, the Royal Government has the following observations to make:

The article additional to the extradition convention, which reads as follows, "Neither of the contracting parties shall be obliged to surrender its own citizens or subjects by reason of the stipulations of the convention of March 23, 1868," accords with our views entirely. Another article should be added to this, however, it being rendered necessary by the proposed naturalization convention. It should conform to article 4 of the convention of February 5, 1873, between Italy and Great Britain. The new article should read as follows:

"ART. 2. Naturalization obtained in either of the contracting states by a person charged with or convicted of a crime, after its commission, shall be no bar to a demand for his extradition or to his surrender. Nevertheless, the extradition may be refused if 5 years have elapsed since the naturalization was obtained and if the person whose extradition is demanded has during such time had his domicile in the state to which the demand is addressed."

As regards the naturalization convention, the Government of the King has no objections to taking as a basis the naturalization convention now in force between the United States and Belgium, although it considers a few modifications necessary in order to bring it in harmony with the laws of the Kingdom of Italy.

The first article of the convention taken as a basis, which authorizes the citizens of both countries to renounce their citizenship, is accepted by the Royal Government with the following reservation: The Italian code recognizes the right of all persons to become citizens of a foreign country, provided, however, that this be done with the express or tacit consent of the person and do not depend solely upon the foreign law or upon the fulfillment of some condition. Now, the acquirement of citizenship is understood in America very differently from what it is in the states of Europe. Thus it is that a foreigner there might, under certain circumstances, be considered, independently of his own will, as an American citizen. The Government of the King, therefore, desiring to establish the principle of freedom in the choice of citizenship, and with a view to avoiding mistakes in the enforcement of the convention in question, proposes the addition of the following clause to the said article: "on condition, however, that the naturalization has been acquired with the consent of the person and does not solely depend upon the law or the fulfillment of certain conditions."

Article 2 of the draft might, perhaps, be interpreted in a manner not in accord with the penal laws of Italy. It is thereby provided that citizens of the contracting parties returning to their native country may be prosecuted for crimes or offenses committed before they were naturalized, on which the argument might be based that such citizens could not be prosecuted for crimes committed since their naturalization. The Italian penal code, on the other hand, provides for various cases in which even a foreigner, on setting foot in the territory of the Kingdom, may be prosecuted for crimes committed in a foreign country. The number of such cases is considerably increased by the new Italian penal code, which will shortly be published. In order, therefore, that the Government of the King may be enabled to accept the article in question, it should be expressly stated therein that the provisions that would be applicable in the case of a foreigner will be enforced in the case of crimes or offenses committed since the naturalization of the perpetrator.

Article 3 of the convention as formulated by the United States Government, exempting from military service citizens of one state who have become naturalized in the other and have resided there for 5 years, can by no means be accepted by the King's Government, inasmuch as article 12 of the civil code provides that the loss of citizenship exempts no person from the obligation to perform military duty. That article would, moreover, render it very easy for an Italian citizen to avoid the fulfillment of that obligation, since, after having become naturalized as an American citizen, and having resided for 5 years in the United States, he might return to his country without being liable to the penalties provided by the military penal code for deserters, as the Italian law declares all persons to be who, when summoned to bear arms, do not respond to the call.

Finally, the Royal Government has no objections to make to articles 4 and 5 of the draft. With regard to article 6, it may be observed that it is not necessary, so far as we are concerned, to mention the consent of the Parliament, since the agreement in question involves no charge upon the treasury of the state, nor, if the proposed modifications are accepted, any change in the laws now in force.

Having thus set forth the objections which it has to the proposition of the legation of the United States of America, the royal ministry of foreign affairs feels confident that the United States Government will take them into kind consideration and introduce the above modifications either in the article additional to the extradition convention or in the naturalization convention.

The royal ministry of foreign affairs will be glad to be made acquainted, in due time, with the decision of the United States Government.

ROME, April 27, 1889.

Mr. Wharton to Baron Fava.

DEPARTMENT OF STATE,
Washington, August 12, 1890.

SIR: Referring to the Department's note of the 29th ultimo, in regard to the evidence requested by the Italian Government for use on the trial of Giuseppe Bevivino and Vincenzo Villella, I have the honor to state that the district attorney of Luzerne County has reported to the governor of Pennsylvania that he is now trying to find two witnesses whose testimony can not be dispensed with, and that after they have been found and their testimony taken he hopes to rapidly conclude the matter.

Accept, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Baron Fava to Mr. Blaine.

Personal.]

ITALIAN LEGATION,
Washington, October 7, 1890. (Received October 8.)

MY DEAR MR. BLAINE: During the conversation that I had the honor to have with you last Thursday, you asked me if the two Italian subjects Villella and Bevivino, charged with a murder committed in the State of Pennsylvania, the extradition of whom could not be granted by the Italian Government, were in reality being tried in Italy.

Your question surprised me, because your Department was duly informed, through the United States legation at Rome, as well as by myself, of the arrest of the two individuals in question in Italy, and of their trial, which was begun as early as 1889 by the criminal court of Catanzaro (Calabre).

The rogatory letters of said court, forwarded to your Department by this royal legation, together with the note of July 8, to which that of August 13, 1889, referred, and together with the note of March 19, to which I referred in mine of April 20, of 5th and 16th of June, and the 23d of July of the present year, will carry out my statement.

Any insinuation leaving to suppose that Villella and Bevivino could escape punishment for the crime they are charged with would seem, therefore, inopportune.

The trial already commenced against them in Italy would have been ended ere this if the courts of Pennsylvania, to which rogatory letters were addressed nearly 2 years ago, had promptly responded to the questions submitted to them by the Italian courts.

Unfortunately, however, and in spite of the good offices of your Department manifested to me in the three notes, viz, of July 29, of the 1st and 12th of August ultimo, the rogatory letters referred to have not yet been answered by the judicial authorities of Pennsylvania. This delay is greatly to be deplored in the interest of justice, and I take the liberty to call your attention to this fact, begging, as I have already done in preceding official notes, that you would use your great influence with the court of Pennsylvania in order that the Italian criminal court may be enabled to try without further delay the two individuals, who have already been detained in jail for about 2 years.

Thanking you sincerely for the attention you will doubtless give to my requests,

I have, etc.,

BARON FAVA.

Mr. Blaine to Baron Fava.

Personal.]

DEPARTMENT OF STATE,
Washington, October 20, 1890.

MY DEAR BARON FAVA: Referring to your unofficial note of the 7th instant, in regard to the evidence needed for the trial in Italy of the Italian subjects Bevivino and Villella, I have the honor to inform you that the governor of Pennsylvania has again addressed a letter to the authorities of Luzerne County, urging immediate action in execution of the letters rogatory of the court of Catanzaro.

I am, etc.,

JAMES G. BLAINE.

Mr. Adee to Baron Fava.

Personal.]

DEPARTMENT OF STATE,
Washington, October 28, 1890.

MY DEAR BARON FAVA: Referring to your personal note of the 7th instant and Department's reply of the 20th, in respect to the evidence requested by the Government of Italy from the court of Luzerne County, Pa., for use in the trial of Bevivino and Villella, I have the honor to say that a letter has been received from the governor of Pennsylvania, stating that the district attorney of Luzerne County reports that two of the most important witnesses have so far not been found, and that this has caused the delay in procuring the evidence.

It is not known that there is any law in the United States for the detention of persons as witnesses in a criminal trial in a foreign country, and since the reception of the letters rogatory from Italy the witnesses can not be found.

I am, etc.,

ALVEY A. ADEE.

Mr. Blaine to Baron Fava.

DEPARTMENT OF STATE,
Washington, November 13, 1890.

MY DEAR BARON FAVA: In further reply to your note of the 7th ultimo, regarding the two Italian subjects Villella and Bevivino, awaiting trial in Italy on a charge of murder committed in Pennsylvania, I have now the honor to inform you that the governor of that State, by a letter dated the 6th instant, advises the Department that the district attorney of Luzerne County hopes to have the testimony of witnesses ready for transmission in a few days.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Baron Fava.

DEPARTMENT OF STATE,
Washington, November 18, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 8th of August last, with which you inclose a copy of a communication addressed to you on the 27th of July by the royal ministry of foreign affairs as a response to the note which I had the honor to address you

on the 23d of June last in relation to the refusal of the Government of Italy to deliver up, under the extradition treaty with the United States, certain Italian subjects charged with grave crimes in this country.

In the reply of the ministry of foreign affairs, it is observed that Mr. Damiani confines himself to inviting attention to certain communications which passed between the legation of the United States at Rome and the royal ministry from January to April, 1889, looking to an amendment of the treaty, and to the definition of the question of citizenship, which is necessarily involved. The most important of those communications is a note addressed by the royal ministry to Mr. Stallo on April 27, 1889, a copy of which you inclose. The Department, while not unacquainted with this correspondence, did not wish it to be regarded as an evidence of the abandonment by this Government of what it considers to be its rights under the treaty, and for this reason, as well as for the reason that the Government of Italy had presented a formal argument to show that our claim was not well founded, it was deemed expedient to define our position and to state in full our reasons for maintaining it.

The note to Mr. Stallo of April 27, 1889, has been carefully considered, but this Department has not been able to regard it as satisfactory. It is proposed, after excepting the citizens or subjects of the contracting parties from the operation of the treaty, to add the following article:

Naturalization obtained in either of the contracting states by the person charged with or convicted of a crime, after its commission, shall be no bar to a demand for his extradition or to his surrender. Nevertheless, the extradition may be refused if 5 years have elapsed since the naturalization was obtained and if the person whose extradition is demanded has, during such time, had his domicile in the state to which the demand is addressed.

The purport of this proposed article appears to be that, while citizenship is recognized as a ground for refusing extradition, citizenship by naturalization can not confer the right to demand it. Hence, if a native Italian who had been naturalized in the United States should commit a crime and seek asylum in Italy, it does not appear that the Government of Italy would recognize our right to demand his surrender. The only effect conceded to naturalization is that, when joined with a subsequent residence of 5 years, it may afford a ground to withhold extradition. It thus confers the right to refuse but not to demand.

This being the substance of the article proposed for insertion in the extradition treaty, it becomes important to consider the observations of the Royal Government found in the note to Mr. Stallo upon the subject of a convention of naturalization. In this relation the royal ministry of foreign affairs states that the Government of the King has no objection to taking as the basis of negotiation the convention now in force between the United States and Belgium, although certain modifications are considered necessary to bring it into harmony with the laws of Italy.

The first of these modifications is an express declaration that naturalization shall not be recognized which has not been acquired with the consent of the individual, but solely by operation of law. The reason stated for the desire to insert this declaration is that in the United States a foreigner may under certain circumstances be considered, independently of his own will, as an American citizen. It is proper to say that the Royal Government must have been misinformed on this subject. The naturalization laws of the United States are based upon the voluntary principle, and such a declaration would be as unnecessary in this country as it is said to be in Italy.

Naturalization merely by operation of law is unknown in the United

States, and this Government has always protested against the application of such a rule to its citizens in other countries.

The second modification desired is an article in which this Government shall agree to the enforcement against its citizens, if they set foot in Italy, of the provisions of the Italian code which relate to the punishment of foreigners for acts committed outside of that country. The specific stipulation suggested is that the penal provisions applicable in the case of a foreigner shall be enforced in respect to offenses committed after the date of the naturalization of the perpetrator. While this stipulation bears the form of a reservation in respect to a particular class of persons, yet it contains, in effect, an acknowledgment of the very extensive jurisdiction claimed under the Italian statutes to punish foreigners for their conduct outside of the Kingdom, and even in their own country. The Government of the United States is unable to assent to this. It has always maintained that for acts committed within its jurisdiction its citizens were answerable to no other law than its own. It could not, therefore, make a concession so extraordinary as that suggested.

The third modification desired relates to the performance of military service. The provisions of the Belgian treaty on this subject are brief and general, and this Government does not object to the substitution of other and different stipulations, provided that they conserve the principle of voluntary change of allegiance, which the Royal Government expresses its wish to secure, and do not exact duties and impose penalties inconsistent with the change of nationality. While the language of the note of the ministry of foreign affairs is not entirely explicit on this subject, yet it is not understood to mean that a person who, having been naturalized as a citizen of the United States, owes allegiance and duty to this country is at the same time to continue to owe the allegiance and duty of a subject to His Majesty the King of Italy. This would be naturalization without change of allegiance and at once destroy the object of the treaty.

In this relation, I inclose a copy of the second article of the naturalization treaty with Austria-Hungary, concluded September 20, 1870, for the consideration of the Royal Government.

Accept, etc.,

JAMES G. BLAINE.

[Inclosure.]

Article 2 of treaty of September 20, 1870, with Austro-Hungary.

Article 2. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country committed before his emigration, saving always the limitation established by the laws of his original country and any other remission of liability to punishment.

In particular a former citizen of the Austro-Hungarian Monarchy, who, under the first article, is to be held as an American citizen, is liable to trial and punishment, according to the laws of Austro-Hungary, for nonfulfillment of military duty:

(1) If he has emigrated, after having been drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army.

(2) If he has emigrated whilst he stood in service under the flag, or had a leave of absence only for a limited time.

(3) If, having a leave of absence for an unlimited time, or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out.

On the other hand, a former citizen of the Austro-Hungarian Monarchy naturalized in the United States, who by or after his emigration has transgressed the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one, two, and three, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the nonfulfillment of his military duty.

JAPAN.

Mr. Swift to Mr. Blaine.

No. 80.]

LEGATION OF THE UNITED STATES,
Tokio, January 3, 1890. (Received January 29.)

SIR: I have the honor to transmit herewith a copy of a communication from His Excellency Viscount Aoki, His Imperial Japanese Majesty's minister for foreign affairs, addressed to me, which, as you will observe, requests me to transmit to each of certain American citizens therein named a medal and brevet commemorative of the promulgation, in February, 1889, of the imperial Japanese constitution, and of the fact that the said American citizens were present on that occasion and witnessed the ceremony.

The American citizens to whom I am requested to forward these medals and brevets are my predecessor in this mission, ex-Governor R. B. Hubbard; Mr. F. S. Mansfield, late secretary of legation, both now living in Texas; Mr. Edwin Dun, present secretary of this legation; and Dr. Whitney, interpreter.

I may also mention that they were present at the ceremony as representatives of the United States.

Inasmuch as both Governor Hubbard and Mr. Mansfield have ceased to hold any diplomatic or other official relation with the Japanese Government, there appears no reason, so far as I can see, why the acceptance or refusal of the articles thus offered them may not be left to their own discretion, at least so far as I am concerned. For that reason, and in view of their recent position at this legation, I felt called upon, as a matter of courtesy due to my predecessor and late secretary, to forward the medals, etc., direct to them without comment or suggestion, which I did. I trust this action may not meet with your disapproval.

Whether the medal referred to is such a present or other gift as falls within the inhibition of section 1751 of the Revised Statutes is a question that I do not feel called upon to decide, but refer to yourself for instructions in future cases, for in the case of Governor Hubbard and Mr. Mansfield I have already acted, at least as to sending the medals.

It is true, however, that in case they accept or reject I shall hereafter be called upon officially to notify the Government of His Imperial Japanese Majesty of the fact. If it be such inhibited gift, it is quite possible that I am wrong in forwarding it to any citizen who by law can not accept it.

I was recently requested by His Imperial Majesty's Government to forward to a gentleman in the United States consular service in Japan a medal recognizing his action in jumping into the sea and, at some risk to his own life, rescuing a drowning Japanese subject. I forwarded the article to the gentleman without offering any opinion as to his right to accept it, but leaving that question to himself. I did so, because I thought the medal issued under such circumstances hardly fell within

the restriction of the statute. Nor, except upon a very strict construction of the statute, perhaps, does it in the medal commemorative of the new constitution which I have forwarded to Governor Hubbard and Mr. Mansfield.

But it is exceedingly probable that the question is not a new one to the Department, and that it may have been long since settled one way or the other.

Whether the United States minister here can properly in any case be the medium of communication and transmission of any kind of testimonial between the Government of Japan and citizens of the United States is a question in my mind not entirely free from doubt, and if there be a settled rule, I should be glad to know and will cheerfully follow it.

Another question I wish specially to be instructed upon. You will observe that the other citizens to whom these medals have been issued are Mr. Dun and Dr. Whitney. These articles are now in this legation. Mr. Dun, being actually secretary of this legation, it follows that the objection to his accepting, if any there be, grows out of the question as to whether this commemorative medal is such a present, emolument, favor, etc., as is prohibited United States diplomatic officers by the Constitution and laws of the country and especially section 1751 of the Revised Statutes. If so, it would seem as a logical result that I have no right to offer it to them, but should return it to the foreign office with a statement of the reasons. The same may be, and probably is, the case as to Dr. Whitney's right to accept the medal issued to him. It is possible Dr. Whitney, who is merely interpreter to this legation, and not technically a secretary, may not stand in precisely the same position in the premises with Mr. Dun, although the reason for the rule would certainly seem to apply as strongly in his case as in that of any other diplomatic employé. Yet I separate them and ask for instructions in each case, and also in Governor Hubbard's.

I have, etc.,

JOHN F. SWIFT.

[Inclosure in No. 80.—Translation.]

Viscount Aoki to Mr. Swift.

DEPARTMENT FOR FOREIGN AFFAIRS,
The 18th day, the 12th month, the 22d year of Meiji.

SIR: His Imperial Majesty, my august sovereign, having been graciously pleased to confer the medal commemorative of the promulgation of the imperial constitution upon those gentlemen who attended the ceremony on February last, I have the honor to forward to you herewith the brevet and the medal and the accompanying note, and beg to request that you will transmit the same to Your Excellency's predecessor, Mr. Richard Hubbard, and three other gentlemen as specified in the inclosed list, who attended the ceremony.

I avail, etc.,

VISCOUNT SUIZO AOKI,
Vice Minister for Foreign Affairs.

[Inclosure.]

Name list.

His Excellency Richard Bennet Hubbard, envoy extraordinary and minister plenipotentiary; Frederick Sherwood Mansfield, esq., first secretary; Edwin Dun, esq., second secretary; Dr. Willis Norton Whitney, esq., interpreter.

Mr. Swift to Mr. Blaine.

[Extract.]

No. 88.]

LEGATION OF THE UNITED STATES,
Tokio, February 5, 1890. (Received March 1.)

SIR: I have the honor to transmit herewith copies of correspondence lately had between this legation and His Imperial Japanese Majesty's foreign office under the following circumstances:

The China and Japan Trading Company is one of the principal and amongst the oldest established and most respectable associations of merchants, citizens of the United States, doing business in Japan. Their trade is varied and extensive, covering importations of most of the leading articles of American production used in this country.

Sometime during the year 1887 they made arrangements to bring from the United States and place upon this market an article which they describe as a "food medicine." It is a preparation of cod-liver oil and is known by the trade name of "Scott's Emulsion." Among the first things they did was to inquire of my predecessor, Mr. Hubbard, if it was necessary for them, as a firm of American merchants, to take out a license for the sale of this commodity. To this I understood Mr. Hubbard replied verbally in the negative; that the commodity being an article manufactured in the United States, having once paid the customs import on entering the country, it could not be subjected to further taxation as a condition to its sale or use. Having obtained this decision from the minister of the United States, they commenced the introduction of the goods to the public by an extensive system of advertising in the vernacular newspapers, laying out several thousand dollars in that way.

In the early part of the year just closed (1889) they began to make arrangements with Japanese retail merchants for the sale of their goods and commenced selling. There sprang up within a short time a considerable demand for the article, and the sales became very satisfactory. But, before this had gone on very long, they learned that the native merchants with whom they had arranged for the sale of the goods had been sent for by the Japanese authorities and warned that they must each of them take out a special license for the sale of the article known as "Scott's Emulsion." On learning this the American importers, to avoid delay and trouble, instructed the merchants to comply with this requirement and take out the license; but at the same time they applied to me for advice and to obtain, by diplomatic action, a recession of the order requiring a license.

Although I had but recently arrived in the country and was exceedingly unfamiliar, not only with the construction heretofore placed upon the treaties, but even with the terms of those instruments, yet, upon the hasty examination I was able to make, I felt it my duty to call the attention of the Japanese Government to the case, and accordingly addressed to Count Okuma, then His Imperial Japanese Majesty's minister for foreign affairs, a note calling his attention to the matter and requesting him to consider if the illegal order concerning the license ought not to be withdrawn. It was dated September 13, 1889, and a copy is herewith inclosed.

A short time after sending this first note Mr. Brower, the agent of the China and Japan Trading Company, came to the legation and informed me that a fresh attack had been made by the authorities upon the sale of "Scott's Emulsion" more serious than the first, and urging

me to move the Government to withdraw these orders and to concede to the firm the rights due to them under the treaties as citizens of the United States engaged in commerce in Japan. His first complaint was to the effect that the Japanese merchants engaged in selling "Scott's Emulsion" had been required to pay an excise tax of 10 per cent. ad valorem upon the retail price in the shape of a revenue stamp to be applied to each bottle, and that an evasion of this order would be followed by punishment as a misdemeanor or public offense; that the retail merchants, upon being warned of this exaction and the consequences of refusal, had filed declarations with the authorities to the effect that they would no longer deal in the goods, and, having returned the stock on hand to the importers, they had retired from the business; and that the trade was practically brought to an end. I then sent the second letter to the foreign office, dated October 4, 1889 (copy inclosed). This was answered on the 23d of October by the note of that date, also herewith inclosed.

After a very considerable delay, no doubt due to causes entirely sufficient in themselves to relieve His Imperial Japanese Majesty's Government of any suspicion of intentional discourtesy, but greatly to the embarrassment, if not to the actual injury, of the American merchants engaged in the trade, a final answer was received on the 17th of January, 1890, deciding the question against the China and Japan Trading Company and holding that not only the license duty, but 10 per cent. excise, is within the right of the Japanese Government under the treaties, to which communication your attention is respectfully called.

If I am not entirely at fault in my reasoning, the decision justifying these impositions, if carried to its logical consequences, practically destroys the treaty, so far as the tariff of customs duties is concerned. And while the United States has long since manifested its willingness to abandon all treaty tariffs with Japan and to leave her free to regulate her own commerce, it would be absolutely destructive to our commerce with, and ruinous to our merchants in, Japan should the regulation be changed, as can be done under this ruling, so as to discriminate against them whilst leaving those of other nations as they now are.

As to the position distinctly taken in Viscount Aoki's letter of January 17, 1890, that neither the license nor the excise tax are in contravention of the treaty, it can not be sustained for a moment, neither upon the language of the instruments nor from the construction placed upon them by the uniform practice of over 30 years.

Both the license and the excise violate the treaty, and the principle upon which they are sustained annihilates it. The language of the treaty of 1858 would indicate that Mr. Townsend Harris, at the time he made the treaty, was already familiar with the burdens placed upon internal commerce in China by the "likin" taxes and transport passes, and that he took special pains in his treaty to avoid similar imposts in Japan. The language of the treaty of 1858, taken with the long-settled practice under it, in my opinion, testify to his skill and success in that as well as in other matters. By articles III and IV, which are to be read together, it is provided specifically what goods may be imported by Americans, and what may not, and the amounts of customs duties are fixed in distinct terms. Article III provides that "all classes of Japanese may purchase, sell, keep, or use any articles sold to them by the Americans." This clause alone is conclusive of the whole question. Having named a particular condition upon which American goods may enter the country and be sold, no other can be imposed without violating the terms of the treaty, according to all recognized rules of construction.

A clause in article IV provides that "all goods imported into Japan and which have paid the duties fixed by the treaty may be transported by the Japanese into any part of the Empire without the payment of any tax, excise, or transit duty whatever."

This was no doubt intended to prevent the levying of tolls upon transportation to the interior, as is done in China. I regard the provision in article III, allowing Japanese to keep, use, or sell goods bought of Americans, to be the controlling language, and both taken together, certainly, it seems to me, secure our right to be exempt from internal taxation.

The treaty of Mr. Harris is the model upon which all subsequent compacts have been formed. Had subsequent treaties been more favorable, of course we would get the additional advantage under the favored-nation clause; but, as I read them, they are substantially the same though in some instances, perhaps, a trifle clearer in expression.

The last treaty made by Japan was with Austria-Hungary in 1869, and as all foreign states have the benefit of it under the favored-nation clause in their own treaties, this is generally referred to as showing the relations existing between Japan and the foreign powers. I do not, however, as I said before, think that it gives the United States any additional rights as to the matter under consideration over the provision on the same subject contained in our own treaty of 1858. Indeed, that compact has been followed by all the powers that have since treated with Japan, as close, perhaps, as differences in language would permit. For your convenience I will, however, insert the provisions of the Austria-Hungary treaty of 1869 bearing on the rights of merchants of that country. They are as follows:

ART. VIII. At each of the ports open * * * to trade, Austro-Hungarian citizens shall be at full liberty to import * * * and sell there * * * all manner of merchandise not contraband, paying the duties thereon as laid down in the tariff annexed to this treaty and no other charges whatsoever.

ART. XII. All goods imported by citizens of the Austro-Hungarian monarchy into any of the open ports of Japan, on which the duties stipulated by the present treaty have been paid, may, whether they are in the possession of Austro-Hungarian citizens or of Japanese subjects, be transported by the owners into any part of the Japanese Empire without the payment of any tax or transit duty whatever.

ART. XIII. All Japanese shall be at liberty to buy any articles from Austro-Hungarian citizens * * * and they may keep and use the articles which they have thus bought, or resell the same.

If our own treaty does not secure to American merchants the right to have the goods resold by Japanese merchants without additional tax, license, or excise, this certainly does.

I have, etc.,

JOHN F. SWIFT.

[Inclosure 1 in No. 88.]

Mr. Swift to Count Okuma.

No. 14.]

LEGATION OF THE UNITED STATES,
Tokio, September 13, 1889.

SIR: I have the honor to herewith transmit a document received at this legation from the China and Japan Trading Company, complaining of what appears upon the face to be an infraction of the terms of the treaty between Japan and the United States under the following circumstances: The China and Japan Trading Company is a firm of merchants, citizens of the United States, engaged in business in Yokohama and other treaty ports. One of the articles in which they deal is a preparation made in the United States and sold as an article of merchandise by the trade name of "Scott's Emulsion."

It appears from a document signed by the board of health of Osaka Fu, accompanying the complaint of the China and Japan Trading Company, a copy of which I inclose to you herewith, that the financial department of His Imperial Japanese Majesty's Government have forbidden the sale in Japan of the said article of merchandise, "Scott's Emulsion," by any merchant or agent of sale, unless such merchant or agent first obtain from the Government a license for such sale as a patent medicine, which license, I understand, is not gratuitously given, but is to be paid for in money as a means of raising revenue for Government uses.

This license for the sale of "Scott's Emulsion" seems to me to be in contravention of the provisions of the treaty of July 29, 1858, especially of article III, which stipulates that Japanese may sell articles sold to them by Americans, and of article IV, which provides that no tax, excise, or transit duty shall be imposed upon them.

If I am correct in this view, I have the most complete confidence that Your Excellency will promptly take the necessary steps to cause the illegal order to be withdrawn by the department for finance.

If by any mischance I have overlooked any clause of the treaty which shows that the order of the department for finance is not in contravention of that instrument, I shall be only too happy to receive Your Excellency's explanation, which I will respectfully await.

I avail myself, etc.,

JOHN F. SWIFT.

[Inclosure 1.]

Mr. McGrath to Mr. Swift.

YOKOHAMA, September 5, 1889.

SIR: Referring to our letter of the 9th of April last, copy of which is inclosed herewith, in the matter of the sale of "Scott's Emulsion" as an article of merchandise and not as a patent medicine, being an article of foreign manufacture, and not considered or classified in any other country as a patent medicine, it having its formula or composition printed on the face of the bottles, and the disposition exhibited on the part of the Japanese authorities to prohibit or interfere with its sale by their own subjects, contrary to treaty regulations for the sale of foreign articles, etc., imported in accordance with treaty regulations and paying the regular duty of 5 per cent., we beg to state that we have just received from the Osaka authorities (Japanese) a communication in response to an inquiry made of them, prompted by information we had received from our customers for this article that the sale had been prohibited, on the grounds that it is considered by the said authorities as a patent medicine and the law or regulations for the sale of patent medicines manufactured in Japan had not been complied with. We inclose the original letter and the translation.

We would add, however, that we are informed on good authority that the patent law or regulations for the sale of same applies only to patent medicines made in Japan, and not to articles imported under treaty or trade regulations in force and in practice, and paying the regular import duty of 5 per cent.

We would ask for the kind offices of Your Excellency in this matter in ascertaining from the Japanese Government if there has not been some infringement or interference by the Osaka authorities with the sale of this article contrary to the general understanding or interpretation of the treaty or trade regulations governing such cases.

We remain, etc.,

THOS. F. MCGRATH,
Manager of China and Japan Trading Company.

[Inclosure A.]

The China and Japan Trading Company to Mr. Hubbard.

YOKOHAMA, April 9, 1889.

SIR: Your Excellency will no doubt remember that about 1 year ago we made personal inquiry through our Mr. Brower as to whether it was necessary for us to obtain from the Japanese Government a license for the sale of a medicine known as "Scott's Emulsion" of cod-liver oil with the hypophosphites of lime and soda.

It appears that a Japanese subject who manufactures for sale any medicinal article is obliged to obtain a license and stamp each bottle or package according to its retail price per bottle or package.

Your Excellency was of the opinion at that time that, as "Scott's Emulsion" is a foreign article, being manufactured by Messrs. Scott & Bowne, of New York, United States of America, and London, England, it was not necessary to obtain such license or affix the stamps.

Messrs. Scott & Bowne, for whom we are agents here, have been and are spending large sums of money in advertising "Scott's Emulsion," the result of which has been to create a considerable demand for this article. The retail druggists, however, hesitate to offer it for sale, as it is not stamped or protected by license from the Japanese Government, and we think that it retards our business in this article.

Will you kindly ascertain from the Japanese authorities if it is necessary for us to obtain a license or affix any stamps, and inform us how to proceed in the matter?

We inclose a copy of the report of the Government analyst of Yokohama, showing that there is nothing of a poisonous nature contained in the preparation.

We remain, etc.,

CHINA AND JAPAN TRADING COMPANY.

Mr. McGrath to Mr. Swift.

YOKOHAMA, June 10, 1889.

SIR: Referring to our communication of April 9, we would add thereto that we have no case as yet of any interference on the part of the Government, further than some inquiries as to the status of the medicine, whether being a food medicine simply or a patent medicine, the latter paying a stamp tax and a special license being required. The Japanese druggists fear that it will be classed as the latter, which would involve, perhaps, some fine for selling this medicine without a license and for stamp.

This fear interferes with the sale of the emulsion, and hence we are obliged to ask that the inquiry be made of the proper authorities if "Scott's Emulsion" will be accepted here, as in the United States, as a "food medicine" (its contents being detailed on the label) or if a special license will be required by the Japanese druggists for the sale of the same.

We remain, etc.,

THOS. F. MCGRATH,

Manager of China and Japan Trading Company.

[Inclosure B.]

The board of health of Osaka Fu to the China and Japan Trading Company.

OSAKA, September 3, 1889.

In reply to your note of the 31st ultimo, regarding the "Scott's Emulsion," we now have to say that we have called Takeda Chobei and three others, the agents for the sale of the emulsion, and have told them that they must get license for the sale of "Scott's Emulsion" as a patent medicine.

This is in accordance with the instructions we have received from the home and finance departments, in answer to our inquiry to those departments about the emulsion which is advertised in the papers.

THE BOARD OF HEALTH,

Osaka Fu.

[Inclosure 2 in No. 88.]

Mr. Swift to Count Okuma.

No. 20.]

LEGATION OF THE UNITED STATES,

Tokio, October 4, 1889.

SIR: Referring to my communication No. 14, dated September 13, 1889, in which I brought to Your Excellency's notice what seemed to me to be an infraction by the Japanese authorities of the treaties between the United States and the Empire of Japan, in levying an excise upon an article of American production and import, known as "Scott's Emulsion," I respectfully call Your Excellency's attention to the circumstance that the question is one of considerable importance to my countrymen engaged in commerce in Japan and urge that you will kindly give it as immediate attention as your other duties will permit of.

The finance department, it seems, requires a revenue stamp representing 10 per cent. of the value of the article sold to be placed upon each package. Since sending you my communication of the 13th ultimo, informing you of the action of the Government officials of Osaka Fu, the sale of the article in question has been authoritatively prohibited in Tokio.

That you have not found time to answer my inquiry, nor even to acknowledge its receipt, although 3 weeks have elapsed since it was sent, I have no doubt is due to the pressing nature of other official duties of more importance to Your Excellency's Government than this which I have had the honor to point out to you. But, as the question raised by me involves an important right hitherto enjoyed by American citizens under the treaties, I respectfully ask your indulgence in pressing it upon your attention and for as early a reply as your convenience will permit of.

I avail myself, etc.,

JOHN F. SWIFT.

[Inclosure 3 in No. 88.—Translation.]

Viscount Aoki to Mr. Swift.

No. 37.]

DEPARTMENT OF FOREIGN AFFAIRS,

The 23d year, the 10th month, the 22d year of Meiji (October 23, 1889).

SIR: I have the honor to acknowledge the receipt of Your Excellency's note of the 4th instant, in reference to the alleged interference on the part of His Imperial Majesty's Government with the sale of a medical preparation known as "Scott's Emulsion."

In a note upon this subject dated the 13th ultimo you stated that His Imperial Majesty's department for finance had forbidden the sale in Japan of the article in question by any merchant or agent of sale, unless such merchant or agent first obtained a Government license authorizing such sale as a patent medicine, which license, you were advised, was subject to a monetary charge for the purposes of revenue. You thereupon expressed the opinion that the license in question was in contravention of the provisions of the treaty of 1858, and you invited the attention of the Imperial Government to the question.

In your note now under acknowledgment you refer to your former communication on this subject and declare that the infraction of the treaty complained of consisted of an attempt to levy upon the emulsion an excise tax of 10 per cent. ad valorem, and you add that the sale of the emulsion had been authoritatively prohibited in Tokio since your first communication on the subject was written, and, finally, Your Excellency is pleased to call attention to the fact that your note of the 13th ultimo had not been answered, nor even its receipt acknowledged, although 3 weeks had elapsed since it was sent.

In reply, I beg to acquaint Your Excellency that, immediately upon the receipt of your first note on the subject, the matter was referred to the department of home affairs for investigation. I am just in receipt of a reply from His Excellency the minister of home affairs, but, as that response only professes to deal with the question of licenses and license fees and does not touch the new issue relating to excise duty which you raise in your note of the 4th instant, I have deemed it best to obtain from the department of home affairs a report upon the second question before reporting to you the result of the first examination, and I beg to assure you that no unnecessary delay will be permitted either in the examination of the question or in acquainting you of the result of such examination.

I avail myself, etc.,

VISCOUNT SUIZO AOKI,
Vice Minister for Foreign Affairs.

[Inclosure 4 in No. 88.—Translation.]

Viscount Aoki to Mr. Swift.

DEPARTMENT FOR FOREIGN AFFAIRS,

The 17th day, the 1st month, the 23d year of Meiji (January 17, 1890).

SIR: In my note of the 23d of October last, I had the honor to acknowledge the receipt of Your Excellency's notes of the 13th of September and the 4th of October last, in which, referring to the alleged interference on the part of certain authorities of the Imperial Government with the sale of a medical preparation known as "Scott's

Emulsion" imported into Japan by the China and Japan Trading Company, and the attempt made by them to levy upon the emulsion an excise duty equal to 10 per cent. ad valorem, you expressed your opinion that the action of such authorities would seem to be in contravention of the treaty concluded between Japan and the United States. In that note I stated that, before communicating to you a definite reply in reference to the question raised by Your Excellency, I had deemed it best to obtain from the department for home affairs a report on the question of the alleged imposition of an internal tax. Being now in receipt of reports from the department for home affairs and the department for finance, I am prepared to state herewith the result of the examination into the matter in question and to set forth the opinion of the Imperial Government.

It appears from the report received from the department for home affairs that in Osaka the local authorities directed certain Japanese subjects who were selling "Scott's Emulsion" to obtain a license permitting them to sell the emulsion as a licensed medicine, and that in Tokio, although the local authorities have never directly prohibited the sale of the emulsion, certain Japanese subjects engaged in the sale of that medical preparation, having been summoned to Tokio Fu and warned by the authorities that they must obtain licenses in accordance with the provisions of the "Regulations for the sale of licensed medicines," they filed a declaration to the effect that they would no longer continue to sell the emulsion.

This medical preparation, being a combination of cod-liver oil with certain drugs, such as hypophosphites of lime and soda, glycerine, etc., intended for direct use as a remedy for certain kinds of diseases, and being accompanied by directions for use, clearly falls within the description of that class of medicines for the sale of which special licenses are required by the above-mentioned regulations. For this reason, the Imperial Government should not be justified in regarding "Scott's Emulsion" as an ordinary article of commerce and are obliged to require all Japanese subjects who may desire to sell it to obtain from the local authorities licenses permitting them to be dealers in licensed medicines.

In reply to Your Excellency's opinion that the action of the Imperial Government in thus requiring Japanese subjects to obtain licenses for the sale of certain articles imported from the United States, for which license fees are to be paid in accordance with the laws and regulations of the Imperial Government, and to pay the taxes prescribed by such regulations. It therefore seems to me quite unnecessary in reference to this question to enter into the discussion of article III of the treaty, which provides that all classes of the Japanese may sell any articles sold to them by the Americans, and the question whether the action of the local authorities of the Imperial Government in reference to the sale of the emulsion was proper or improper can only be decided by the consideration of the provisions of article IV.

The fifth paragraph of article IV provides that "imported goods which have paid the duty fixed by this treaty may be transported by the Japanese into any part of the Empire without the payment of any tax, excise, or transit duty whatever." The Dutch version is also identical to the English version.

This clause, in the judgment of the Imperial Government, can only be construed to mean that all goods imported from abroad may be transported by the Japanese into any part of the Empire, and such goods shall not be liable to pay any tax in the interior of the country on account of their transportation, provided the customs authorities had already levied import duties upon them. There is, of course, a marked difference between a declaration to the effect that no tax shall be paid in respect of transportation and a stipulation that no tax shall be levied in respect to the sale, use, or consumption of goods. Had it been intended to include in the inhibition this latter class of imposts, the qualifying words "may be transported" would not have been inserted in the treaty.

I am therefore impressed with the conviction that the action of the Imperial Government in requiring every Japanese subject who may sell "Scott's Emulsion" to obtain licenses upon payment of certain fees in accordance with the "Regulations for the sale of licensed medicines," and in imposing upon the emulsion, when sold by such licensed dealers, certain stamp duties which are in all cases levied upon medical preparations, both domestic and foreign, falling within the description of "licensed medicines," is in no wise contrary to the terms of the treaty.

I avail myself, etc.,

VISCOUNT SUIZO AOKI,
His Imperial Majesty's Minister for Foreign Affairs.

[Inclosure 5 in No. 88.]

Mr. Swift to Viscount Aoki.

No. 40.]

LEGATION OF THE UNITED STATES,
Tokio, January 24, 1890.

VISCOUNT: Immediately on returning to this legation on Thursday, I prepared a memorandum of our conversation, as I promised you I would do, and herewith send it for your examination and approval. It is not complete, that is, it does not give the entire conversation, but contains the gist of what was said on both sides, to the best of my recollection, and I therein set forth all that is of any real importance on the affair out of which it arises.

I do not send this paper to you as the basis of a discussion of any kind between us, but simply that I may have your own assurance that I have not misunderstood what took place so far as it bears upon the position of His Imperial Japanese Majesty's Government in the construction it now places upon its treaty with the United States, in order that I may inform my Government with the greatest possible accuracy.

If I hear no objection from you before the departure of the next mail, I will take the liberty of assuming that my understanding and recollection of the conversation has been substantially correct and will forward the précis to my own Government, along with the other papers in the case, the most important being your No. 4, with the written decision of your Government, and await further instructions.

I avail myself, etc.,

JOHN F. SWIFT.

[Inclosure.]

Précis of a conversation which took place by special appointment at the foreign office, Tokio, January 23, 1890, between His Excellency Viscount Aoki, His Imperial Japanese Majesty's minister of state for foreign affairs, and Mr. Swift, the minister of the United States.

Subject.—The decision of His Imperial Japanese Majesty's Government as to the license and excise tax imposed upon the article of American production known as "Scott's Emulsion of Cod-liver Oil," and as to the construction placed upon the treaties between the United States and Japan.

Mr. Swift began by referring to His Excellency Viscount Aoki's communication No. 4, dated January 17, 1890, and in that connection proceeded to say that before notifying his Government of the fact that the Japanese authorities have imposed and are now exacting upon a certain article of merchandise known as "Scott's Emulsion of Cod-liver Oil," imported from the United States, a special license to sell as well as an excise duty or tax of 10 per centum ad valorem in addition to the customs duties agreed upon in the treaties between the two countries, as well as of the communication he had received from His Excellency Viscount Aoki, above referred to, which, if he (Mr. Swift) fairly understood the effect of the same, claimed the right to impose such excise, not merely upon the particular article above named, but upon all goods imported from the United States, in spite of the treaty stipulations, he desired to ask of His Excellency a more complete explanation of the scope and meaning of His Imperial Japanese Majesty's Government as set forth in the said communication.

To this, Viscount Aoki answered that he would willingly give Mr. Swift the desired explanation.

Mr. Swift asked if the decision to place an internal-revenue or excise tax upon "Scott's Emulsion" was because of any peculiar quality or character in that article taking it out of the general provisions of our treaties, or whether His Imperial Japanese Majesty's Government claimed the right generally to impose and exact at will additional taxes upon American goods after their passing the custom-house, as a condition of their sale by Japanese merchants in the ordinary way of trade.

To this, Viscount Aoki replied that it was unnecessary to answer that question; that it was sufficient to say that His Imperial Majesty's Government claimed the right to require merchants to take out a special license for selling "Scott's Emulsion of Cod-liver Oil" and to pay an excise tax of 10 per cent. ad valorem upon all the sales of that article as had been done. His Excellency then went on to remind Mr. Swift that His Imperial Majesty's Government had not raised this question as to the full extent of their rights and had no present intention of doing so; that it was Mr. Swift that was raising the question, and, as His Excellency thought, prematurely and unnecessarily. He warned Mr. Swift that, if he persisted in asking for an answer, His

Imperial Majesty's Government might take the ground that it had the right to levy an excise or other additional taxes at will upon all goods coming from the United States.

Mr. Swift answered this by saying that he did not think that the fear that His Imperial Japanese Majesty's Government would so decide ought to deter him from asking from His Excellency a complete explanation of the written paper he had already received, in which, if he correctly construed its terms, His Imperial Japanese Majesty's Government had informed him officially and in writing that it did take precisely that very ground, and so justified the imposition of the excise tax. He also called His Excellency Viscount Aoki's attention to the fact that had His Imperial Japanese Majesty's Government desired to confine the decision to the exact facts before them and not to intimate an opinion as to what it would do as to goods other than "Scott's Emulsion of Cod-liver Oil," they could have done so by restricting the decision to that article, but this they had not done. On the contrary, they had covered the entire field in that decision and had given as a ground for the excise on that article reasons that logically extended to goods of every nature coming from the United States. Mr. Swift further proceeded to say that if the interpretation of the treaties which had stood undisturbed, to the best of his belief, from the very commencement of commercial intercourse between Japan and foreign countries, namely, that goods once past the custom-house were not to be again taxed as a condition of sale, was now to be changed as to the United States, our merchants being selected as the first to bear the brunt of a serious trade impediment, he felt it to be his duty to learn the extent of the danger threatened to American commerce as soon as possible, in order to forewarn his Government of what might be expected; that although "Scott's Emulsion of Cod-liver Oil" seemed to make but a trifling item in the trade reports between Japan and the United States, yet its importers had the same rights under the treaties with the importers of kerosene oil or any other article; that if the Japanese Government could, without violating the treaties, impose an excise tax upon "Scott's Preparation of Cod-liver Oil," so far as he, Mr. Swift, could judge from present lights, they could do the same thing upon kerosene oil, upon clocks and watches, or any other American commodity; that in this particular instance the announcement of this new tax was a special hardship upon the importers of "Scott's Emulsion," owing to the fact that before offering it upon the market they had expended several thousand dollars in advertising the goods in the Japanese native papers, and that the excise had not been brought to their notice until after these large sums had been laid out; that both the excise and the license had operated upon them as a complete surprise, and that their sale had been substantially interdicted by direct Government and police interference; that what had been done as to this article might, so far as Mr. Swift could see, at any day be done as to kerosene oil or any other American production, and that his Government and countrymen ought to know where they stand.

Under these circumstances Mr. Swift thought His Excellency would allow him (Mr. Swift) to be the judge of the wisdom and propriety of his asking, as he respectfully did, whether the communication of the 17th instant had been duly considered in all its reach, scope, and bearings, and if, in fact, His Imperial Japanese Majesty's Government claimed the right to impose and exact excise and license taxes upon any and all American merchandise as a condition to their sale in the ordinary way of trade. "To be more explicit," said Mr. Swift, "do you claim the right to impose an excise duty, for example, upon kerosene oil?"

His Excellency Viscount Aoki answered that he did so claim, but that there was no present intention to exercise the right.

Mr. Swift then said he was very sorry to be obliged to report to his Government what seemed to him, so far as he could judge, a direct violation, not only of the plain terms of the treaty, but of an interpretation that had been uniform from the commencement of trade relations between Japan and the United States and with all other foreign countries. He also said that he could not refrain from expressing his regret that His Imperial Japanese Majesty's Government had thought it expedient to inaugurate this new ruling by a discriminating act directed at the commerce of the United States, while the merchants of other countries were left untouched. He reminded His Excellency Viscount Aoki that the United States had in the past manifested its well-known kindly feeling towards Japan in many ways, but notably in the position it had taken more than 10 years ago by agreeing in a treaty to yield and surrender all right to interfere in Japanese tariff and trade regulations, only stipulating for what was essential if any American commerce was to remain, namely, that the treaty should not take effect until other powers had agreed; that, under these circumstances, the people of the United States, especially those engaged in commerce, would certainly be surprised at their being, as they might think, picked out from all the others as the first to have their trade put under disadvantageous restriction; that they must, he feared, feel more or less displeased and aggrieved at feeling themselves picked out and selected from amongst all the foreign merchants domiciled in Japan as the subjects of this experiment, under an unexpected and startling departure in treaty construction suddenly put in force by the Japanese Government.

Mr. Swift remarked that it was likely that they would feel to some extent aggrieved even if the new departure in construction was one seemingly not so wide as is this from the original intent and meaning of the treaty when made 30 or more years ago. But, on the contrary, if it should strike them, as he certainly thought it would, that the new construction is erroneous and the old and original interpretation which has stood unchallenged for so long a period was a sound one, then their dissatisfaction with being made the first victims of a change would, he feared, be increased by that circumstance. In short, he was afraid that there might be some who would feel and, perhaps, say that those nations that had been less friendly with Japan than have been the United States, less conciliatory in their bearing, and less yielding to her just demands perhaps have received greater respect and higher consideration at their hands.

To this, Viscount Aoki said he could not take into account what the American people might feel or think; that the rights and interests of Japan alone were the subject of his concern. He, however, proceeded to say that the goods of citizens of the United States had not been specially selected for the imposition of this tax; that goods from other countries had been taxed in the same way.

Mr. Swift said that he had made careful inquiry from his colleagues, the representatives of other powers, and that they had all assured him that the ruling made in the communication of the 17th instant was absolutely new, and that in no instance had they heard of any such tax being imposed upon goods coming from their countries.

At the end of the conversation His Excellency Viscount Aoki remarked that if Mr. Swift was of the opinion that the excise and license were violations of the treaty, he was willing to discuss the question with him, as the decision of His Imperial Majesty's Government was not regarded as a violation or breaking of the treaties with the United States, but merely its construction of their meaning.

This Mr. Swift declined to do at this time, stating that his object in obtaining the interview was not to discuss the question, but solely to ascertain as nearly as possible the exact position the Japanese Government had taken upon the right to impose license and excise taxes upon American goods, and to learn if it had been taken with due consideration and thought, and, finally, to express his regret at the new policy having been inaugurated with respect to the goods of American citizens, as tending to weaken the well-known feeling of kindness that had so long existed on the part of our citizens toward Japan.

LEGATION OF THE UNITED STATES,
Tokio, Japan, January 23, 1890.

Mr. Swift to Mr. Blaine.

[Extract.]

No. 91.]

LEGATION OF THE UNITED STATES,
Tokio, February 16, 1890. (Received March 17.)

SIR: On the 7th instant, the day of the closing of the mail by which my dispatch No. 88, dated February 5, 1890, concerning the excise duty upon "Scott's Emulsion" was sent to you, I received from Viscount Aoki, His Imperial Japanese Majesty's minister of state for foreign affairs, a paper purporting to be a précis of the interview upon that subject which took place at the foreign office on the 23d ultimo, giving Viscount Aoki's version thereof. It was also accompanied by a separate note with English translation, a copy of which I herewith inclose. The note and précis arrived, however, after my dispatch was substantially made up and too late to inclose with it.

Upon examining the précis, a copy of which is herewith inclosed, I found that my part of the conversation had been misunderstood, or at least misinterpreted in certain particulars, which, though not material to the question, were yet, as I considered, deserving of correction. The corrections were made in a "memorandum" which I prepared and sent to His Excellency on the 10th instant, a copy of which is herewith inclosed.

You will observe that Viscount Aoki's version of his own statements agrees with my own upon the main point, namely :

First. That His Imperial Japanese Majesty's Government has levied an internal or excise as well as a license tax upon the article of American production known as "Scott's Emulsion ;"

Second. That they do this under a construction of the treaty which, they hold, permits it ; and

Third. They thus claim that, without violating the treaty, they may do the same with respect to kerosene oil, tobacco, or any other article of American production whenever they are so disposed.

This I regard to be all that is material to the question submitted to you for instructions in my dispatch above named.

As I have already given my reasons for considering this position to be violative of the treaty and practically in subversion of it, I will not add any further remarks, but submit the matter upon my former statement.

I have, etc.,

JOHN F. SWIFT.

[Inclosure 1 in No. 91.—Translation.]

Viscount Aoki to Mr. Swift.

No. 6.]

DEPARTMENT FOR FOREIGN AFFAIRS,

Tokio, the 6th day, the 2d month, the 23d year of Meiji (February 6, 1890).

SIR: I have the honor to acknowledge the receipt of Your Excellency's note bearing date the 24th ultimo, in which you inclose for my examination and approval a memorandum of our interview of the day previous.

In view of the statement contained in your note, to the effect that, in the event you heard no objection from me before the departure of the next mail, you would assume that your understanding and recollection of the conversation as set forth in the *précis* was substantially correct and that you should forward it to your Government, I feel compelled to draw your attention to the fact that the note and *précis* did not reach this department until half past 1 o'clock in the afternoon of the 28th ultimo, that is, not until some time after the mail succeeding the date of your note had actually been closed in Tokio.

Apart from the question of the immediate disposition made by you of the *précis*, I beg to say that His Imperial Majesty's Government would not, under any circumstances, regard themselves as excluded by the fact that they had from any cause been prevented from replying to a communication within a specified period, unless, indeed, they had themselves consented to the limitation of time. And this reservation, permit me to add, is all the more important in the present instance, as I am reluctantly compelled to withhold my adhesion from Your Excellency's *précis*.

Immediately after your departure from this department on the 23d ultimo, Mr. Miyaoka, who was present at our interview, prepared, in pursuance of instructions from me, a full and complete record of our conversation. Instead of attempting to point out specifically the particulars in which my understanding of what occurred at the interview is at variance with your recollection of the same incidents, I beg to inclose herewith a copy of Mr. Miyaoka's *précis*, with the remark that it has my approval. I can not, however, permit myself to pass over this branch of the subject without expressing surprise at the remarks attributed to me in Your Excellency's *précis*, to the effect that I stated that I could not take into account what the American people might feel or think, and that the rights and interests of Japan alone were the subject of my concern. I have no recollection whatever of making use of any such declaration, and I now frankly avow that if words bearing any such construction had escaped from me during the interview they would have been contrary to my own sentiments and opposed to the sentiments of His Imperial Majesty's Government.

In deference to Your Excellency's expressed disinclination to discuss the merits of the question of the right of the Imperial Government to impose an internal tax upon imported licensed medicines, I shall, of course, refrain from presenting to you those important considerations upon which the decision of the Imperial Government was predicated. His Imperial Majesty's Government value too highly the friendship and good opinion of the United States to permit the Cabinet at Washington to remain in

ignorance of those considerations, and I shall consequently deem it my duty to communicate to the Government of the United States on the subject through His Imperial Majesty's legation at Washington.

It is, however, proper for me to correct several misapprehensions of fact under which you labor. The present action of the Imperial Government implies no departure from the construction of the treaty between our respective Governments which had always previously prevailed. On the contrary, the law complained of only went into operation 7 years ago, and, whenever any questions have arisen under it or under similar statutes, the rulings of His Imperial Majesty's Government have been uniform and in harmony with the present decision. The Imperial Government have not picked out an article of American production upon which to essay a new interpretation of their treaties. It was certainly intended that the law should be universal in its application, and if, as you assert, articles falling within the purview of the enactment have escaped taxation, it was an error of the tax officers of the Government, which will without delay be rectified.

I avail, etc.,

VISCOUNT SUIZO AOKI,
His Imperial Majesty's Minister for Foreign Affairs.

[Inclosure 2 in No. 91.]

Précis of an interview at the ministry of foreign affairs, Tokio, January 23, 1890, in reference to the right of the Japanese Government to levy a license and excise tax upon a licensed medicine known as "Scott's Emulsion of Cod-liver Oil."

There were present: Their Excellencies Mr. Swift, United States minister, and Viscount Aoki, His Imperial Japanese Majesty's minister of state for foreign affairs. Mr. Miyaoka acted as interpreter.

Mr. Swift opened the conversation by calling attention to Viscount Aoki's note of the 17th instant. He had sought this interview, he said, in order to ascertain the extent to which the Japanese Government claimed the right to carry the principle of taxing internally imported goods. He was anxious to know, he continued, whether he was correct in assuming that the Japanese Government claimed the right to place excise taxes upon all goods imported from the United States.

Viscount Aoki, in replying to Mr. Swift's inquiry, expressed a disinclination to discuss the question in the comprehensive sense in which it was propounded. He, however, pointed out to Mr. Swift that a special law existed by virtue of which certain internal taxes were imposed on licensed medicines. That law was, in the opinion of the Japanese Government, he said, equally applicable to licensed medicines imported from abroad. He added, in the same connection, that the Japanese Government claimed the right to make all necessary administrative regulations concerning the health and safety of the people, and finally, after being pressed by Mr. Swift for an answer to his question, Viscount Aoki declared that the Japanese Government were of the opinion that under existing treaties they still had the right to place certain internal taxes upon goods imported from abroad.

Mr. Swift observed that "Scott's Emulsion" was in itself but a trifling matter. The general construction which the Japanese Government were now endeavoring to introduce into their treaties was of much more serious importance. It seemed to him that the Japanese Government were trying to overthrow the interpretation of their treaties which had prevailed for 30 years, and it looked to him, he said, as though they had picked out an article of American manufacture upon which to make the first attempt. If, he continued, he should write details of this matter to Washington—and he expressed his intention to do so—the Government and people of the United States would think that the Japanese Government had imposed upon their friendship, and they would naturally conclude that their friendly policy was disadvantageous to them. Mr. Swift concluded by referring to the treaty of 1878 as evidence of the kindly feeling manifested by the United States towards Japan.

Viscount Aoki expressed a conviction that a nation lost nothing by maintaining a friendly attitude towards other states, and he would, he said, regret exceedingly if Mr. Swift's report concerning the action of the Japanese Government in this matter created at Washington the impression which he (Mr. Swift) had predicted that it would. He was, he added, fully aware of the cordial and friendly relations which had always existed between the Governments and people of Japan and the United States, and he well knew that it was the desire of the Imperial Government to perpetuate those relations. It was consequently a source of regret for him to learn, as he had just done, that Mr. Swift labored under the impression that the Japanese Government had picked out an article of American manufacture upon which to ex-

periment in the matter of taxation. He assured Mr. Swift that the Japanese Government have no desire whatever to make any discrimination. In a question of this kind the Japanese Government could not regard at all the place of production or manufacture. Had "Scott's Emulsion" been manufactured in England or Germany, instead of America, Viscount Aoki was positive it would have been subjected to exactly the same tax as is now imposed.

Mr. Swift desired to know if any articles imported from countries other than America were subject to an excise tax.

Viscount Aoki replied that he had no general report from the department of home affairs, but he happened to have a special report which mentioned that a licensed medicine called the "Pain Killer" was taxed in the manner complained of by Mr. Swift.

Mr. Swift observed that the "Pain Killer" was also an American preparation, and he again invited Viscount Aoki to indicate a single medicinal preparation imported from some other country—Germany, for instance—upon which an excise tax was levied.

Viscount Aoki repeated his former statement on the subject, to the effect that he was not in possession of a general report from the department of home affairs. He reminded Mr. Swift that the licenses were granted, and the taxes assessed and collected, by the local officials. This fact, he thought, would account for the absence of more explicit information on the subject, and it would also explain any conflicting practices that might exist in different parts of the country. Viscount Aoki volunteered to obtain the desired information from the local authorities if Mr. Swift desired it.

Mr. Swift said he had no desire to possess such information. He contented himself with declaring that in levying an excise tax upon goods imported from the United States the Japanese Government violated their treaty engagements.

Viscount Aoki was unable to concur in this opinion, as he thought the Japanese Government had not surrendered the right to impose the tax in question.

Mr. Swift called attention to article III of the treaty of 1858. He thought, he said, that that article had been overlooked by the Japanese Government. It provided that Japanese might freely sell any article sold to them by Americans. He had, he added, consulted other gentlemen belonging to the diplomatic corps, and they had all united in declaring that they had never before heard of the construction that the Japanese Government now seek to put on their treaties.

Viscount Aoki denied that the Japanese Government had prohibited the sale of "Scott's Emulsion." They had only exercised their right to levy an internal tax upon that article in common with other licensed medicines—both domestic and foreign.

Mr. Swift said that Viscount Aoki's last observation was only a repetition of the statement contained in the note under discussion. What he wished to know, he said, was whether Japan claimed the right to levy an additional tax on imported goods, and, if they did, whether they claimed that the right of internal taxation extended as well to general merchandise, such, for instance, as kerosene and tobacco.

Viscount Aoki had no doubt as to the abstract right of Japan to impose the tax in question on kerosene or tobacco, but, as a matter of fact, he said, Japan had made no attempt to impose the duty. Kerosene was under the law free from internal taxation, while the only internal impost on tobacco was a manufacturer's tax, so that imported tobacco was free after paying the customs duty.

Mr. Swift was anxious to know if the Japanese Government claimed that they had the right to enact a law at any time imposing an internal tax on imported goods.

Viscount Aoki replied in the affirmative, and in that connection he recalled Mr. Swift's attention to the fact that in 1888 the finance minister issued a notification modifying the system that had previously been in vogue of calculating dutiable values for customs purposes. That action was a departure from the preëxisting practice, but it elicited no protest from the treaty powers.

Mr. Swift was able to perceive a distinction between the two cases. He did not think that the action of the minister of finance was violative of the treaty. But he was unable to discover any reason why the Japanese Government might not tax internally kerosene and all other articles imported from the United States if their contention concerning "Scott's Emulsion" was correct.

Viscount Aoki replied that the law determined what articles should pay internal taxes, and, while under existing statutes several articles were subject to excise, he believed that licensed medicines were the only articles that were taxed that were imported.

Mr. Swift was unable to discover why the Japanese Government desired to revise their treaties if the right of taxation which they now claimed was unqualified.

Viscount Aoki pointed out that there were other questions involved in the subject of treaty revision. The Japanese Government, he maintained, had no desire to levy

an internal tax on kerosene. Had they deemed such a course good policy, of course it would have been absurd to discuss customs duties in connection with treaty revision.

Mr. Swift wished it understood that he was not referring to the intention or desire of the Japanese Government. He was dealing solely with the question of right, and he again asked if, in contemplation of their treaties, the Japanese Government claimed the right—apart from their intention to exercise the right—to impose an internal tax on duty-paid imports.

Viscount Aoki again replied in the affirmative.

Mr. Swift thereupon expressed the conviction that Japan had by her treaties surrendered the right. He then referred to the "likin" tax, which was collected in China, and expressed the opinion that the stipulations in the treaty of 1858, on the subject of taxation, were inserted in order to prevent Japan from levying a likin tax.

Viscount Aoki agreed with Mr. Swift as to the intention of the treaty. Likin, he pointed out, was a transit tax, and Japan had, he was satisfied, waived her right to levy any tax in connection with transportation upon imported goods; but the express qualification, in his opinion, implied the right to impose other taxes.

Mr. Swift, on the other hand, thought that if Japan was debarred from levying likin she was equally prohibited from instituting any kind of excise tax upon duty-paid imports.

Viscount Aoki adhered to his former construction of the treaty provision concerning the question of taxation upon transportation. It was clear to his mind that Japan had surrendered her right in regard to transit taxes, but he could not admit that the surrender applied to other kinds of taxes. So long, he said, as Japan makes no distinction between domestic and imported goods in the matter of taxation, he was unable to perceive what valid objection could exist.

Mr. Swift based his objection upon the fact that the claim was violative of the treaty. He should, he declared, report this matter to his Government and inform them that Japan had violated her treaty. He thought it unfortunate that in her endeavor to get rid of her treaties Japan should select the United States, a power that had invariably manifested its friendly feeling for Japan, upon which to begin the experiment.

Viscount Aoki denied that the Japanese Government had any such intention as that attributed to them by Mr. Swift, and he thought that the history of Japan's foreign relations and the manner in which she had in good faith fulfilled onerous treaty stipulations proved the contrary. Besides, if Japan had been actuated by the motives which Mr. Swift attributed to her, she would hardly have raised the issue upon a matter of such trivial importance as the imposition of an excise tax upon a medicinal preparation.

Mr. Swift thought the Japanese Government knew exactly what they were attempting to accomplish. He repeated that Japan was violating her treaties, and he again declared that he was of the opinion that she was doing so in order to get rid of her engagements.

Viscount Aoki said that it was apparent that they had reached a point in the discussion where they could no longer agree; he therefore suggested that future arguments be reduced to writing. If, he continued, Mr. Swift would address him on the subject, he (Viscount Aoki) would reply, and in that way he hoped they might be able to arrive at a common understanding.

Mr. Swift declined to adopt the suggestion. He was satisfied, he said, that Japan had violated her treaty, and it only remained for him to communicate with his Government on the subject.

Viscount Aoki acknowledged the right of Mr. Swift to communicate with his Government in any sense he saw fit. If Mr. Swift declined to discuss the question, he (Viscount Aoki) had nothing more to say.

Mr. Swift expressed his intention of preparing a précis of the interview, and he added that he would send a copy of it when completed to Viscount Aoki for examination and approval.

Viscount Aoki replied that he should be happy to receive the précis.

This terminated the interview.

DEPARTMENT OF FOREIGN AFFAIRS,

Tokio, the 23d day of the 1st month, 23d year of Meiji (January 23, 1890).

[Inclosure 3 in No. 91.]

Mr. Swift to Viscount Aoki.

No. 41.]

LEGATION OF THE UNITED STATES,
Tokio, February 10, 1890.

COUNT: I herewith transmit to you a memorandum, in which I take the liberty of calling your attention to and correcting what seems to me to be certain misinterpretations of my part of the conversation that took place on the 23d of January last, concerning the matter of the excise tax on the article known as "Scott's Emulsion," which misinterpretation, I have no doubt, was unintentional and the result of natural difficulties of translation.

I avail myself, etc.,

JOHN F. SWIFT.

[Inclosure.]

Memorandum.

Mr. Swift has the honor to acknowledge the receipt of His Excellency Viscount Aoki's précis of the interview which took place at the ministry of foreign affairs January 23, 1890, in reference to the right of the Japanese Government, under existing treaties, to levy a license and excise tax upon an article of American production known as "Scott's Emulsion."

And, while satisfied in the main with His Excellency's version of the affair, which he, Mr. Swift, considers to be upon all material points substantially identical with his own précis furnished on the 23d of January, 1890, yet, nevertheless, upon certain matters immaterial to the principal question he finds that some inaccuracies, especially as to remarks attributed to Mr. Swift on that occasion, have found their way into the memorandum, doubtless owing to the misunderstanding on the part of the interpreter of the language actually used by Mr. Swift.

As to the words purporting to have been used by His Excellency Viscount Aoki, Mr. Swift has no doubt that they are accurately set forth in the précis made at the foreign office, and where the two differ will, of course, accept the statement of His Excellency as correct.

In several places the précis of His Excellency Viscount Aoki records Mr. Swift as expressing an opinion as to what his Government would think of the action taken by the Government of Japan in the construction now placed upon the treaties, and especially that the United States Government would think that the Japanese Government "had imposed upon its friendship."

Mr. Swift at no time ventured to express or intimate an opinion as to what his Government would think of the matter, nor as to the impression his report of the treaty construction would create at Washington. Mr. Swift expressed a fear that more or less of his countrymen, especially those engaged in commerce with Japan, would think that the Japanese Government had selected the United States for the initiation of a new and unexpected construction of the treaties, and would feel aggrieved with consequent results.

The following language, attributed to Mr. Swift in His Excellency Viscount Aoki's précis, leads him to think that he was not understood by the interpreter, as it is certainly inaccurate, namely:

"Mr. Swift based his objection upon the fact that the claim was violative of the treaty. He should, he declared, report the matter to his Government and inform them that Japan had violated her treaty. He thought it unfortunate that in her endeavor to get rid of her treaties Japan should select the United States, a power that had invariably manifested its friendly feeling for Japan, upon which to begin the experiment."

All of this being immaterial to the main point, Mr. Swift would not consider it of sufficient importance to call for correction, but for the general tone of disrespect to the Japanese Government which the language imports, a disrespect Mr. Swift is very far from feeling, and which would, under the circumstances, have been improper for him to express if he had entertained such feelings.

The same inexactness occurs in attributing another speech to Mr. Swift, namely: "Mr. Swift thought the Japanese Government knew exactly what they were attempting to accomplish. He repeated that Japan was violating her treaties, and he again declared that he was of the opinion that she was doing so in order to get rid of her engagements."

Mr. Swift disclaims the use of these expressions or of anything capable of such a meaning.

He did give it as his opinion that the excise duty upon "Scott's Emulsion" was in violation of the treaty, and that the ruling of Viscount Aoki in his note No. 4 of January 17, extending the ruling to all American productions, if put into force, would lead to further violations of it. He also said that His Excellency Viscount Aoki's ruling was a new and unexpected construction placed upon the treaties, and that he regretted that an article of American production had been chosen upon which to make the initial application of the new doctrine, giving for his regret the reasons above named.

He did not at any time "declare that he would report to his Government that Japan had violated her treaty;" nor did he intimate that his intention to report the facts of the case to his Government was the result of anything other than the regular and ordinary discharge of his duties in reporting this in common with all other transactions of his legation. He did not at any time use any such expression as that "the Japanese Government knew exactly what they were attempting to accomplish," nor "that Japan was endeavoring to get rid of her treaties," nor "violating them in order to get rid of her engagements."

Mr. Swift said nothing tending to impugn the motives or question the sincerity or integrity of His Imperial Majesty's Government in the construction of the treaty. What he did say was that, in his opinion, the construction was new; that it was a reversal of a construction long acquiesced in; and that he, Mr. Swift, thought it to be violative of the language and intent of the treaty. But he did not, either expressly or by implication, suggest that the Japanese Government thought it to be a violation of the treaty.

It is true that Mr. Swift declined to discuss the question of treaty construction, but he gave as a reason for refusing that, until he could ascertain the views of his Government, he did not feel at liberty to do so. Mr. Swift did not pretend to know what his Government would think; in fact, at the outset of the interview he announced that he wished to inquire as to the exact position of the Japanese Government, in order that he might, as it was his duty to do, correctly report that position to his own Government.

From the *précis* of His Excellency Viscount Aoki, it appears that he suggested to Mr. Swift that it was apparent that they had reached a point in the discussion where they could no longer agree, and that, in future, arguments be reduced to writing, etc.

Mr. Swift has no doubt that Viscount Aoki used precisely that language, though he, Mr. Swift, does not remember to have had it translated to him or to have understood it.

He will, however, cheerfully follow the suggestion, and, should further discussion be found necessary, which he can only determine after hearing from his Government, he will follow that plan so far as it can conveniently be done.

LEGATION OF THE UNITED STATES,

Tokio, February 10, 1890.

Mr. Swift to Mr. Blaine.

No. 106.]

LEGATION OF THE UNITED STATES,
Tokio, March 18, 1890. (Received April 15.)

SIR: Some time since Mr. V. Marshall Law, a citizen of the United States residing in Tokio, informed me that he had in his possession a section of rope made of human hair which had been used as an ordinary cable in lifting building material in the construction of a Buddhist temple at Kioto, in Japan, which he desired to transmit as a free gift to the Smithsonian Institution for final deposit as an object of general public interest. He at the same time inquired if I could in any manner facilitate the transport of this curious rope to its place of destination, inasmuch as for him to do so would involve on his part some outlay of money and other inconveniences more or less difficult to overcome. As I understood Mr. Law to say, the priests of the temple only consented to part with the piece of rope upon the positive assurance from him that the rope was not for Mr. Law, but for the American nation, and that it would be placed in the Smithsonian Institution as a public

deposit, and, in fact, that they intended it as a gift to the people of the United States, positively declining to allow any private person to have what they regarded as a sacred thing.

Under these circumstances, I have thought it proper to assist in its conveyance and delivery and to utilize the return dispatch pouch to transmit the rope to the United States, in the belief that you will consider this curious relic worthy of being so officially forwarded and approve my action.

I have the honor, therefore, to request that you will cause the section of human hair rope, with the accompanying photograph of the entire rolls of cable still remaining at the new Buddhist temple at Kioto, as well as the papers and documents, including a copy of the letter from Mr. Law, to be delivered to the Smithsonian Institution in such manner as you may deem suitable and proper.

I have, etc,

JOHN F. SWIFT.

[Inclosure in No. 106.]

Mr. Law to Mr. Swift.

TOKIO, March 6, 1890.

HONORABLE AND DEAR SIR: The writer sends you to-day a section of rope made of human hair, also a large photograph of all the remaining hair cables in existence at this time, a table of the names of provinces of the donors showing the size and length of each of the ropes used in the construction of the eastern Hon-gwan-ji temple at Kioto, and a lithograph drawn to scale of that famous Buddhist edifice, with the request that if it meets with your approval it may be forwarded to the Smithsonian Institution in the United States, with such of the latter-named documents as may, in your estimation, be of interest to the patrons of that institution.

These articles came into my possession under the following circumstances: Last July the writer visited Kioto, and while looking over that ancient city of Japan visited the Hon-gwan-ji temple, then almost completed. His attention was particularly drawn to the numerous black hair cables lying about, all of which were or had been in use for elevating heavy timbers, etc. Upon inquiry he learned that these ropes were made from the hair of men and women who were the followers of Buddha, and who had sacrificed their long hair that these ropes might be made. The writer was impressed with the fact that these hair ropes told an eloquent story of the self-sacrificing devotion of the followers of this religion, and he at once made efforts to secure pieces of the ropes to send to the Smithsonian Institution. Every effort made at that time failed, and the best he could do was to request that his application be placed "on file" and brought before the council of Buddhist priests. As many sight-seers had already made efforts to beg or buy pieces of these ropes to no purpose, the writer suffered many a quiet "smile" from his friends, who, while they were astonished at the writer's audacity, felt that they knew perfectly well that he would never get a piece of those ropes under any pretext whatever. But at last, after more than 7 months, the leading Buddhist priest of Japan, Hiramatz Rei, has delivered to the writer the section of the largest cable called for, along with the photograph and printed tables of length and weight, the two latter having been especially provided by them, in order that Americans might the better judge of the enormous quantity of hair furnished them for the making of these ropes. The writer can not rid himself of the idea that the religious people of America can learn a lesson of personal sacrifice and devotion from these followers of Buddha in Japan. How many churches would be built in Christendom if the rank and file were called upon to sacrifice their hair for the manufacture of the necessary ropes and cables?

Respectfully submitting these relics to your disposal, in accordance with a pledge made to Mr. Hiramatz Rei, the writer remains,

Yours, very sincerely,

V. MARSHALL LAW,
25 Tsukiji, Tokio.

Since the 13th year of Meiji (1880), when the rebuilding of the two halls of the eastern Hon-gwan-ji, in Kioto, was begun, the faithful laymen and laywomen of every place have been unanimous in presenting to the principal temple (Hon-zan) strong

ropes made of their own hairs to be used for the work. The number of these ropes reached 53 lines in all, and 29 of them were already broken or became useless from frequent using, though they were equally very strong. The length and weight, etc., of these ropes are no longer known, but there exist 24 lines. For the sake of memory of the future, therefore, we make a table of the names of the donators' places and of the length and weight of the existing 24 lines.

OFFICE OF THE REBUILDING AFFAIRS
(OF THE EASTERN HON-GWAN-JI),
7th month, 22d year of Meiji (1889).

I.—A table of the names of the provinces of the donators of the hair ropes.

Province.	Line.	Province.	Line.
Etohu.....	16	Harima.....	3
Echigo.....	15	Iwaki.....	1
Ugo.....	10	Bungo.....	1
Sanuki.....	4		
Echizen.....	3	Total.....	53

II.—A table of the number, length, and weight of the existing hair ropes.

Number.	Length.	Circle or circumference.	Weight.	Number.	Length.	Circle or circumference.	Weight.
	<i>Jo, shaku.</i>	<i>Shaku, sun, bu.</i>	<i>Kwan, momme.</i>		<i>Jo, shaku.</i>	<i>Shaku, sun, bu.</i>	<i>Kwan, momme.</i>
1.....	13, 8	6, 0	18, 300	15.....	7, 6	6, 8	23, 700
2.....	36, 0	1, 3, 0	280, 000	16.....	7, 5	6, 5	10, 000
3.....	30, 3	1, 0, 0	66, 000	17.....	31, 5	9, 0	70, 500
4.....	23, 7	7, 5	28, 500	18.....	24, 0	5, 5	65, 300
5.....	15, 6	6, 5	1, 600	19.....	23, 6	9, 4	57, 800
6.....	14, 4	6, 0	14, 800	20.....	22, 8	1, 1, 0	100, 000
7.....	17, 1	6, 0	23, 000	21.....	16, 2	7, 0	20, 000
8.....	20, 1	9, 0	42, 700	22.....	13, 8	6, 3	13, 800
9.....	29, 1	6, 0	40, 600	23.....	11, 4	4, 4	8, 750
10.....	25, 8	7, 0	46, 000	24.....	12, 6	6, 3	16, 000
11.....	8, 8	4, 0	13, 200				
12.....	11, 3	7, 5	17, 600	Total.....	452, 8	7, 5, 8	1051, 650
13.....	28, 2	9, 5	63, 000				
14.....	7, 6	5, 6	10, 800				

1 jo = 9.9421186 feet. 1 shaku = 11.930542 inches. 1 bu = 1.4316650 line. 1 kwan = 10.064575 pounds. 1 momme = 2.4154980 pennyweights.

The commas between the figures are used as we would use a ruling. Thus in the first column it reads 13 jo and 8 shaku.

Mr. Blaine to Mr. Swift.

No. 59.]

DEPARTMENT OF STATE,
Washington, March 18, 1890.

SIR: I have to acknowledge the receipt of your No. 88 of the 5th ultimo, in relation to taxes imposed by the Japanese Government upon an American preparation known as "Scott's Emulsion." This preparation is described as a "food medicine," being composed of cod-liver oil, hypophosphites of lime and soda, glycerine, etc.

It appears that the China and Japan Trading Company, by whom the article in question has been imported into Japan, sought the advice of the United States minister at Tokio, in 1888, as to whether it would be required of them, being a firm of American merchants, to take out a license for the sale of the commodity, and that they were informed by him that it would not be necessary. Acting upon this advice, they pro-

ceeded to advertise the preparation and to arrange for its importation and sale. In the early part of 1889, after the emulsion had for some time been on the market, the Japanese retail merchants, by arrangement with whom the preparation was disposed of, were informed by their Government that they must purchase a special license for its sale. The American importers, in order to avoid delay and trouble, instructed the Japanese merchants to obtain the license, but at the same time applied to the legation to secure, if possible, by diplomatic action a withdrawal of the order of the Japanese Government. In response to this application, you addressed the Japanese foreign office a note bearing date September 13, 1889, copy of which you inclose. After this note was written another ground of complaint arose. In addition to the license tax previously required, the Japanese merchants were informed that they must pay an excise duty of 10 per cent. ad valorem upon the retail price of the preparation in the form of a revenue stamp to be placed on each bottle, and that an evasion of the order would be followed by punishment as for a misdemeanor or public offense. In consequence of this new exaction, the Japanese merchants were unable any longer to deal in the preparation and were compelled to return the stock on hand to the importers. Meanwhile, an imitation of the preparation has been made by the Japanese and is having an extensive sale, due in large measure to the previous advertising of the American commodity by the China and Japan Trading Company.

On the subject of the second exaction you addressed the Japanese foreign office a note bearing date the 4th of October last. On the 23d of that month Viscount Aoki acknowledged the reception of your two notes, to which he promised a further reply when he should have received a report from the department of home affairs. The further reply was not made until the 17th of January last, and in it Viscount Aoki defends the action of his Government on the twofold ground, first, that "Scott's Emulsion," being in the nature of a medical preparation, falls within the Japanese regulations for the sale of licensed medicines, which require a special license to be taken out for the vending of such articles; and, second, that under the treaties the Japanese Government has the right to levy internal taxes on all goods or articles of merchandise imported into the Empire. On the 23d of January last you had a conversation by appointment with Viscount Aoki at the foreign office, in regard to the question at issue, and of this conversation you inclose in your dispatch a précis.

Under date of the 7th instant, the Department received from the chargé d'affaires of Japan at this capital a note relating to the same subject-matter as your dispatch. Accompanying this note are copies of your two notes of September 13 and October 4, 1889, to Count Okuma; of the replies of Viscount Aoki of the 23d of October and of the 17th of January last; of your précis, communicated to Viscount Aoki on January 24, of your conversation with him of the preceding day, and also of a précis, prepared by the viscount, of the same interview. Copies of the note of the Japanese chargé d'affaires and of Viscount Aoki's précis of the conversation of the 23d of January are herewith inclosed.* The two accounts of the interview vary in some particulars, not an infrequent occurrence where conversations are conducted through an interpreter, but into those variances it is not thought to be material or expedient to enter.

* For note of Japanese chargé d'affaires of March 7, 1890, see correspondence with Japanese legation at Washington, page 116; for Viscount Aoki's précis see inclosure 2 in No. 91, page 588.

In the note of the *chargé d'affaires* the same arguments are used in defense of the action of the Japanese Government as are found in Viscount Aoki's note to you of the 17th of January last; but it is observed that in the note of the *chargé d'affaires* it is said that while the Imperial Government entertains the views before stated and feels confident that the Government of the United States may accept them, the Imperial authorities would not have it understood that they would inflexibly adhere to their opinion or hesitate to abolish the internal taxes upon the imported article if it could be conclusively shown that they are not altogether correct in their position; and in this relation they ask an expression of the views of the United States upon the subject.

In reaching a conclusion in regard to the admissibility of the taxes in question it is thought to be necessary to refer only to two provisions in the treaty between the United States and Japan of 1858, to which you have already called attention. By the third article of that treaty it is provided that—

Americans may freely buy from Japanese and sell to them any articles that either may have for sale, without the intervention of any Japanese officers in such purchase or sale, or in making or receiving payment for the same.

And that—

All classes of Japanese may purchase, sell, keep, or use any article sold to them by the Americans.

The obvious purpose of these two provisions was to do away completely with the restrictions which had previously existed in Japan against the sale of articles of merchandise by Americans to the Japanese and the free disposition by the latter of the articles so sold.

By the seventh article of the treaty of 1854 (the first treaty between the United States and Japan) it was agreed that ships of the United States resorting to the ports open to them should be permitted to exchange gold and silver coin and articles of goods for other articles of goods, under such regulations as should be temporarily established by the Japanese Government for that purpose. This stipulation secured no general right of commerce and was found to be of little practical value. The treaty of 1858 announced and secured a complete reversal of the previous policy of the Japanese Government. Absolute liberty of trade having been established by article 3 of the treaty, the conditions under which trade should in the future be carried on were defined in the next succeeding article.

Duties [so reads article 4 of the treaty] shall be paid to the Government of Japan on all goods landed in the country, and on all articles of Japanese production that are exported as cargo, according to the tariff herewith appended.

Provision is then made for the valuation of goods, for the exemption from duty of supplies for the United States Government, and the importation of opium is prohibited. Then follows this stipulation:

All goods imported into Japan and which have paid the duty fixed by this treaty may be transported by the Japanese into any part of the Empire without the payment of any tax, excise, or transit duty whatever.

Viscount Aoki contends that under this stipulation the Japanese Government has the right to impose such internal taxes as it may deem proper upon foreign goods imported into the Empire and found in Japanese hands, provided no duty is levied upon their transportation, thus laying special and exclusive stress upon the words "may be transported." These words he considers as defining and limiting the scope of the whole stipulation. After careful reflection, I find myself wholly unable to concur in Viscount Aoki's interpretation. I am forced to the

conclusion that it is excluded, not only by the general purpose, but also by the express terms of the treaty. It may be true, as has been suggested, that the American negotiator of the treaty of 1858 had in mind in his negotiations with the Japanese Government the "likin" tax, or transit duty, imposed on foreign goods in the Chinese Empire. But, admitting this to be the case, the language of the treaty renders it clear that it was intended, while doing away with the transit duty, to prevent the imposition of equally onerous and distinctive taxes in other forms.

The objection to the "likin" tax was and is that it practically annuls the benefits intended to be secured to foreign nations by the establishment of a definite schedule of tariff duties. The objection to it rests, not upon the ground that it is a duty upon transportation, but upon the fact that it in reality increases to the extent of the tax imposed the amount of duties required to be paid upon foreign importations.

The words "may be transported" were employed merely for the purpose of preventing a differential treatment of the imported goods based upon a change of the place in which they might be found or of the hands into which they might come. In itself the matter of transportation amounted to little and was a mere incident. If the goods were to be transported, it was for some purpose, viz, one of those mentioned in article 3 of the treaty, to "purchase, sell, keep, or use." It would have availed nothing to exempt the transit from duty if, the moment it was completed, the goods became liable to further taxes at the will of the Japanese Government. Hence it was provided that they might be transported without the payment of "any tax, excise, or transit duty whatever." The argument of Viscount Aoki eliminates from this provision the words "taxes and excise," and leaves only the words "transit duty," or at most makes the former words merely synonymous with the term "transit duty." I am unable to perceive any rule of interpretation by which such a construction can be admitted. The words "tax and excise" must be held to have been used advisedly and for some purpose. In the opinion of the Department the language of the whole stipulation shows that it was the clear intention of the contracting parties to preclude the assessment of duties, in addition to those provided in the treaty, by reason of the passage of the goods from American into Japanese hands.

It confirmed and secured the right guaranteed by article 3 of the treaty, of the free sale of goods by Americans to Japanese, and of the right of all classes of Japanese to purchase, sell, keep, or use such goods.

If anything were needed to sustain this opinion, ample confirmation of it would be found in the uniform practice of the Japanese Government during the 30 years that have elapsed since the treaty was concluded. Never before, within the knowledge of the Department, has it been claimed by that Government that goods having paid the duties prescribed by the treaty might further be burdened with internal taxes. Such, also, as your dispatch shows, has been the practice of the Japanese Government with respect to goods imported by other foreigners than Americans. Indeed, the efforts that have been put forth through so many years to reach a readjustment of the conventional tariffs have been, so far as Japan is concerned, misdirected and unnecessary if she possesses the power, immediately after goods have passed into Japanese hands, to subject them to such further duties as she may see fit to impose.

This Government is therefore compelled to regard the recent action of the Japanese Government as a clear and substantial violation of the

provisions of the treaty of 1858; and it confidently relies, in its expectation of the reversal of that action, upon the expression found in the note of the Japanese chargé d'affaires of the readiness of the Japanese Government to abolish the taxes in question if shown to be in conflict with the treaties.

Your protest against these new exactions is therefore approved, and you are instructed to communicate the views herein expressed to the Japanese Government by leaving a copy of this communication with the minister for foreign affairs.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Swift.

No. 61.]

DEPARTMENT OF STATE,
Washington, March 20, 1890.

SIR: I have to acknowledge the receipt of your No. 80, of the 3d of January last, in which you ask instructions on the subject of receiving from the Japanese Government medals and other gifts for American citizens, commemorative of events in which they may have been participants, or of services of a humane or other character which they may have rendered.

By section 9, article I, of the Constitution of the United States it is provided that—

No person holding any office of profit or trust under them [the United States] shall, without the consent of the Congress, accept any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

This provision applies to the acceptance by officials of the United States of presents, emoluments, offices, or titles for themselves. By section 1751 of the Revised Statutes of the United States it is provided that "no diplomatic or consular officer shall * * * ask or accept, for himself or any other person, any present; emolument, pecuniary favor, office, or title of any kind," from any foreign government. To the constitutional prohibition against the acceptance by any officer of the United States for himself of a present from a foreign government this statute adds the inhibition that diplomatic and consular officers shall not even receive such a present for anyone else. This provision is absolute, and the words "present, emolument, pecuniary favor, office, or title of any kind" seem to comprehend everything that can be the subject of a gift.

The course generally observed in such matters is for the foreign government to transmit the present (if it be to a person competent to receive it) through its own officials. Where the present is intended for an officer of the United States who is precluded by the Constitution from receiving it, unless authorized by Congress so to do, the course to be followed is prescribed by section 3 of the act of January 31, 1881 (Stats. at Large, vol. 21, p. 604), which provides that—

Any present, decoration, or other thing which shall be conferred or presented by any foreign government to any officer of the United States, civil, naval, or military, shall be tendered through the Department of State, and not to the individual in person; but such present, decoration, or other thing shall not be delivered by the Department of State unless so authorized by act of Congress.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Swift.

No. 63.]

DEPARTMENT OF STATE,
Washington, March 21, 1890.

SIR: I have to acknowledge the receipt of your No. 91 of the 16th ultimo, in which you inclosed a memorandum correcting Viscount Aoki's précis of the interview which you held with him at the imperial foreign office on the 23d of January last, in relation to the excise duties imposed by the Japanese Government on Scott's Emulsion.

In conducting conversations through an interpreter it frequently occurs that expressions are misinterpreted, and in such case each party is entitled to an opportunity to correct any misstatements attributed to him. After considering the respective accounts of yourself and Viscount Aoki of what was said at the interview, the Department is of opinion that the merits of the question at issue are not involved, and it is hoped that your respective explanations will be accepted as mutually satisfactory.

I am, etc.,

JAMES G. BLAINE.

Mr. Swift to Mr. Blaine.

No. 111.]

LEGATION OF THE UNITED STATES,
Tokio, April 8, 1890. (Received May 5.)

SIR: I have the honor to apprise you of the fact that I have been absent from Tokio for a period of 6 days, beginning with the 30th ultimo and ending the 4th instant. This time was occupied in going to, coming from, and, whilst there, witnessing a series of military and naval maneuvers and exercises of His Imperial Japanese Majesty's land and sea forces, ending with a grand review of troops, covering 4 days of operations within the above period, carried on at and in the immediate vicinity of a large city called Nagoya, on the eastern coast of Japan, and about 235 miles in a southerly direction from the capital.

The members of the diplomatic corps were invited by direction of the Emperor, and, with two or three exceptions, all attended. The invitations, however, so far as the diplomatic body was concerned, were limited to chiefs of missions, except in case of legations having military attachés, when such attachés were also invited. The utmost pains were taken by the officers of His Imperial Japanese Majesty's household department to make our visit enjoyable. Every possible provision was made for our comfort, and the officers having the matter in charge, as well, in fact, as all with whom we were brought in contact, from the Emperor down, were courteous and polite to a degree difficult to describe, but most delightful to enjoy. A large and commodious Japanese inn was fitted up in European style for our accommodation, with the electric light especially introduced for the occasion. Here an excellent table was served, and every day from 20 to 40 people, including 3 imperial princes, the entire cabinet, the generals of the army, and the foreign ministers present, sat down and dined together.

The fact that this is the first time, at least in Japan, that the diplomatic body has been invited to witness these maneuvers and displays of force renders it not improbable that the Government are of the opinion that the army and navy have now reached a point of completeness in numbers, equipment, and discipline that they can with

benefit to the prestige of the country exhibit them to the powers and boldly challenge criticism. Not having myself any military knowledge beyond that obtained by having to some extent traveled in Europe with more or less opportunity to witness parades and reviews of troops, but, except during the Franco-Prussian war, chiefly in time of peace, my opinions of what I saw can be of little or no technical value. But it scarcely requires professional skill to discover that Japan has made very considerable progress in creating both an army and navy modeled upon European systems of construction and discipline, and the recent maneuvers about Nagoya were well calculated to show to the best advantage the progress that has actually been made. The entire affair was laid out so that the operations should be conducted as in a genuine state of war, the general outlines of which alone were prearranged. The scheme of maneuvers and sham battles assumed that an alliance against Japan had been formed between two foreign powers for the conquest of the country; that these allied forces with a powerful fleet of war ships dominated the sea, under the protection of which fleet an army of invasion had been disembarked on the eastern coast off Nagoya; that other hostile vessels of war menaced all the prominent cities of the Empire from Hakodate, on the north, to Nagasaki, on the south; that for defense the Japanese army had completed its mobilization in its various garrisons, while the navy was concentrated in certain protected harbors, and the merchant marine, under the protection of such harbor defenses, were securely anchored in the same ports. The defenses of these ports were assumed to be completely organized. The invading army, so said the scheme of operations, had obtained possession of the railroads south of Nagoya on the Osaka side, while the army of defense held those leading from Tokio south, and from thence approached to repel the invaders.

The 31st of March was taken up with a naval sham battle, which I did not have the opportunity to witness. But I am able to inform you that the fleet of defense contained no less than six powerful iron or steel men-of-war, built and armed in Europe upon the best modern plans, with a number of torpedo boats; while that of attack had nine cruisers or gunboats of similar class and quality, among which I noticed the *Naniwa*, after the model and lines of which the U. S. cruiser *Charleston*, recently constructed at San Francisco, is, I believe, copied. The fleet of attack was accompanied by three transports.

The sham fight and other maneuvers at sea which took place on Monday, according to information I received from Captain Ingalls, a British naval officer of high standing who was present and saw them, were highly creditable to both ships and crews and showed that, at least so far as operating the ships and guns was concerned, the Japanese have but little, if anything, to learn from western nations.

The land operations were carried on between two opposing armies embracing on the actual field of battle in the aggregate about 28,000 troops of various arms of the service, including artillery, cavalry, and infantry. The opposing forces moved forward over the country as in actual war, the fight commencing whenever contact was felt at any point. I need hardly call attention to the fact that more troops were actually engaged in these maneuvers than are now contained in the entire United States Army. As for the make-up and equipment, personal bearing, appearance, and movement of the rank and file of the Japanese army at Nagoya, I will only say that, to the best of my judgment, all were in the highest degree complete, effective, and soldierly, according to the best European standards. Though at present I

believe such foreign military instructors as remain in Japanese service are mostly German, the dress and equipment of the Japanese army are strongly marked by earlier French influence. The troops dress much as French soldiers dress. They are well clothed in serviceable uniforms, with good substantial leather shoes, and on the march bear a neatly constructed knapsack with a second pair strapped in sight. The dress of all branches of the service as to material and make and as to color and style of trimmings follows closely the French military dress and is well calculated to command respect for the wearer and at the same time to inspire the soldier wearing it with a proper and useful pride in his uniform and profession.

Soldierly bearing is encouraged here, as in France, by the private soldier of all arms of the service being allowed, whether on or off duty, to wear his side arms, the sword bayonet of the infantryman being specially fitted with a scabbard and belt for that purpose. The foot soldiers seen alone walking the streets of Tokio would, for style, step, and dress, pass fairly well in Paris. The weapon of the Japanese foot soldier is a rifle invented in Japan by Colonel Marata, is very similar to the Henry-Martini, and is considered fully equal to the best breech-loading gun in use in Europe and America. In the maneuvers at Nagoya ordinary black powder was generally used, but the Government is understood to have a smokeless powder, the secret of which they are zealously guarding, which they claim to be an assured success. The artillery, of which a relatively sufficient force of field batteries was engaged, was all of the best and latest pattern of brass breech-loading and rapid-firing guns, and, so far as I could see, well served. On one occasion during the sham battle I stood in the Emperor's suite on the brow of a hill which had been defended by a battery of ten (breech-loading) mountain guns, when an order was given to replace them with a like number of field ordnance. The small guns were taken out of position, mounted with the carriages, equipment, and ammunition on the backs of horses, and moved off the field, while a battery of larger field guns, 12-pounders, I think, on wheels galloped up, were placed in position, and fire resumed from them, the change being made with a degree of rapidity and precision of maneuver that I thought admirable. Not knowing at first the meaning of the movement, I did not time the operation, but thought that within 5 minutes from the cessation of fire from the light guns the heavy ones opened it again from the same spot.

The weakest arm of the service, and the only one I felt disposed to compare unfavorably with that of other countries, was the cavalry, and this mainly because of the smallness of the horses, which were of the native Japanese breed. The Japanese horse, though strong and possessing many good points, is too small for a good cavalry horse, besides having so hard a mouth that it must be difficult to manage with the bridle. These are faults that can only be mended by improving the breed by judicious crossing, which will take several years to bring about, though progress is already being made in that direction by the service of imported stallions.

During the field operations I was mounted upon a half-bred horse sent down from the imperial stables at Tokio, of good form and as an example most promising of what will be the future horse of Japan.

The difficulty of prosecuting military operations in the seacoast territory of Japan, owing to the fact that rice is so extensively cultivated, with the consequent almost impassable paddy field, an actual swamp, was brought sharply to my attention. As a defense, the rice fields are of great strategic value to the country. The roads through them are

few and very narrow. In fact, were the land absolutely covered with water navigable for any kind of boats it would be more easily crossed than when used for rice culture. It is absolutely impossible for artillery or cavalry to march except by single and always exceedingly narrow roads, and the same is practically true as to infantry. To display a force or to march even on foot in any manner except in column along these narrow roads skirted by rice swamps, when men would sink to their knees at every step, to say nothing of the irrigating canals and ditches that abound everywhere, is substantially out of the question. It follows that the defensive force holding the high ground where the road leaves the rice land has a position of immense advantage.

On the first day the attacking army organized a storming column to rush along one of these dikes against the defense thus posted. - But after having advanced at double-quick pace along the road, quite up to the line of defense, they were ordered by the umpire, His Imperial Highness Prince Arisugama, to retire, he having, as it seemed to me, very justly decided that in actual battle they must have been either forced back or annihilated by the musketry fire at the end.

Considered as a whole, the maneuvers and display of force were very creditable and must have been very satisfactory to the Emperor and his cabinet, who were all on the ground.

In a personal interview, held on the field with the various foreign ministers, the Emperor asked the opinion of each of them upon all that had occurred. What the others said I do not know, but, for myself, I sincerely expressed my admiration for his army, its equipment, discipline, and conduct.

That the splendid showing of military and naval strength and discipline manifested on this occasion will tend to render His Imperial Japanese Majesty's Government firmer in their overtures for modifications of existing treaties upon points with which they have long been dissatisfied seems to me not improbable.

I have, etc.,

JOHN F. SWIFT.

Mr. Blaine to Mr. Swift.

No. 66.]

DEPARTMENT OF STATE,
Washington, April 17, 1890.

SIR: I have to acknowledge the receipt of your No. 106 of the 18th ultimo, the section of the sacred rope which accompanied the same, and the other inclosures which you mention. They have been sent to the Smithsonian Institution, with a copy of your dispatch.

You will convey to the Buddhist priests at Kioto, the donors of this greatly prized gift, and to Mr. V. M. Law, the gentleman through whose courtesy the gift was made possible, the sincere thanks of the Government.

I am, etc.,

JAMES G. BLAINE.

Mr. Swift to Mr. Blaine.

No. 120.]

LEGATION OF THE UNITED STATES,
Tokio, May 20, 1890. (Received June 11.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 59, dated the 18th of March, containing your ruling upon the question raised by the correspondence and interview between myself and

His Imperial Japanese Majesty's minister for foreign affairs, touching the license and excise duty collected upon the article of American production known as "Scott's Emulsion."

As promptly as possible after receiving the instruction I caused a copy of the same to be made and forwarded, accompanied by a brief note and without comment, to His Excellency Viscount Aoki, since which time I have heard nothing further of the matter.

I have thought it advisable, under the circumstances, not to make immediate inquiry or allusion to the matter for the present, in the hope that in due time the objectionable ruling will be rescinded and the article quietly relieved of the tax, perhaps without immediate publicity.

I have, etc.,

JOHN F. SWIFT.

Mr. Blaine to Mr. Swift.

No. 81.]

DEPARTMENT OF STATE,
Washington, June 12, 1890.

SIR: I have your No. 120 of the 20th ultimo, stating that you had communicated a copy of instruction No. 59 of the 18th of March last, on the subject of the taxes which had been required by the Japanese Government in respect of the sale of the American product "Scott's Emulsion" to the foreign office, but that no reply had been received.

There is no occasion to renew representations unless the Japanese Government should continue to tax the article and without submitting a reply to the views of the Department. In that case, which is not anticipated, you will be justified in pressing the protest further.

I am, etc.,

JAMES G. BLAINE.

Mr. Swift to Mr. Blaine.

No. 129.]

LEGATION OF THE UNITED STATES,
Tokio, July 7, 1890. (Received August 6.)

SIR: I have the honor to inclose herewith a copy of a communication just received from Viscount Aoki, His Imperial Japanese Majesty's minister of state for foreign affairs, dated the 5th instant, bearing upon the pending disagreement between the two Governments on the question of the excise and license taxes collected upon the article of American production known as "Scott's Emulsion."

In my last dispatch upon the subject, which was my No. 120, dated the 20th of May, I had the honor to inform you that, acting in obedience to your instruction of the 18th of March, your No. 59, I had notified the Imperial Government of the decision you had rendered upon the point in dispute by sending them a copy of it; but that in doing so I had, for reasons therein given, added no remark, comment, nor suggestion of action. I at the same time gave you my reasons for thinking that they would in due time acquiesce in your construction of the treaties in the "Scott's Emulsion" matter by quietly rescinding the order exacting the imposts.

In removing the discussion from Tokio to Washington, as appears to be the purpose of His Imperial Japanese Majesty's Government, I trust a speedy and satisfactory conclusion may be arrived at. In the meantime I have the honor to await your further instructions.

I have, etc.,

JOHN F. SWIFT.

[Inclosure in No. 129.—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS.

Tokio, the 5th day of the 7th month, the 23d year of Meiji (July 5, 1890).

SIR: I have the honor to acknowledge the receipt of Your Excellency's note of the 28th of April last, inclosing, by instruction, the copy of a dispatch from the honorable the Secretary of State of the United States, in continuation of the subject of the right of His Imperial Majesty's Government, under existing laws, to impose license fees and internal taxes in respect of an imported American medical preparation known as "Scott's Emulsion."

I find it impossible, after an attentive consideration of the observations contained in that dispatch, to share entirely the conclusions therein expressed. I have consequently, in the usual course, instructed His Imperial Majesty's chargé d'affaires at Washington to communicate the further views of the Imperial Government on the subject to the honorable the Secretary of State.

I avail, etc.,

VISCOUNT SUIZO AOKI,

His Imperial Japanese Majesty's Minister for Foreign Affairs.

Mr. Swift to Mr. Blaine.

[Extract.]

No. 146.]

LEGATION OF THE UNITED STATES,

Tokio, August 15, 1890. (Received September 22.)

SIR: I have the honor to inform you that the elections for members of the Diet took place throughout Japan on the 1st of July last. In the provinces and capital alike they passed off in the quietest and most orderly manner. I have delayed communicating the facts to you until now, with a view to give you reliable information as to the political complexion and character of the new legislative body.

According to the "law of elections," persons registered as qualified electors and desiring to vote had to attend in person at the voting place. There, after identification by reference to the electoral list, each received a voting paper, upon which he inscribed the name of the person he voted for, then his own name and residence, finally affixing his stamp. This paper the elector placed in the ballot box with his own hands in the presence of the headman of the district, acting as manager, and of from two to five witnesses previously selected.

The polling commenced at 7 o'clock a. m., and at 6 o'clock p. m. was formally declared closed. The ballot boxes having been closed with two locks, one by the headman the other by the witnesses, were forwarded next morning to the district office of their respective localities.

As might, perhaps, have been foreseen, there are as yet, in Japan, no political parties in the sense the term is used in the United States. There are numerous political societies calling themselves parties, but which in the United States would rather be called "clubs" than "parties." They are, as a rule, brought into existence by some prominent and active

politician, and are, in fact, the following of his individual political views. They act under his leadership and are generally recognized as his "party." This is the natural result of the political condition in Japan to-day. When the Diet meets and the living issues of the time come before that body for consideration, the present associations must, if parliamentary government is to succeed, disappear, and parties in the western sense of the word be formed for the purpose of carrying out principles and not the mere advancement of men.

The most complete returns attainable give the representation of the different parties in the Diet as per the accompanying paper marked "Election returns." In regard to the term "Independents" used in that paper, it should be explained that independence of political parties is alone referred to. Men are described as "Independents" who have hitherto refrained from publicly avowing their allegiance to any political association. It is from members of this category that it is expected the Government will receive its strongest support; as they have always held aloof from parties in opposition, it is supposed that their sympathies are, as a rule, with the authorities.

I inclose herewith a very ably written article from the Japan Daily Mail of August 12, entitled "Political parties in the Diet," which says about all there is to be said at this time upon that subject. As to the proposed alliance of the progressive parties spoken of in the latter part of that article, the following parties are referred to: The Daido party ("Party of Great Questions"), of which Count Goto, present minister of communications, is the leader, represented in the Diet by 54 members; the Kaishin-to ("Progressionists"), of which Count Okuma is the leader, represented in the Diet by 46 members; Aikokuko-to ("Patriotic Party"), of which Count Itagaki is the leader, represented in the Diet by 28 members; the Kyushu Shimpō-to ("Society of Fellow-Thinkers"), represented in the Diet by 13 members; the Jiyu-to ("Radicals"), of which Mr. Oi is the leader, with 17 members in the Diet; the Jichi-to ("Party of Self-Government"), of which Count Monye is the leader, represented in the Diet by 12 members; and the Koin Club, an off-spring of the Daido, Aikokuko-to, and Jiyu-to parties, and represented in the Diet by 3 members.

An alliance between the parties named above could, in my opinion, not result in anything more than united action for a special object.

The law of meetings and political associations, promulgated July 25, 1890, I now inclose herewith.

The Diet is composed of 300 members, of whom 70 held official positions, either local or in the Central Government; 30 are farmers, 16 lawyers, 12 journalists, 8 merchants, 18 district headmen, 6 bankers, 4 school-teachers, 2 physicians, and 2 had been priests. The occupations of the remaining 130 are not given.

According to the constitution of Japan, the House of Peers consists of five classes of members:

First. Princes of the blood who have attained their majority.

Second. Princes (not of the blood) and marquises who have reached the age of 25.

Third. Counts, viscounts, and barons to the number of one-fifth of those orders, who have attained the age of 25 and shall have been elected by their peers.

Fourth. Members appointed by the Emperor to the number of not more than the noble members.

Fifth. One member elected, and to be approved and nominated by the Emperor, in each city and prefecture, from among and by the 15

male inhabitants of that city or prefecture who pay the highest amount of direct national taxes on land, industry, or trade.

The members of this last class, 46 in number, were elected on the 10th of June, 1890. Since then 15 counts, 70 viscounts, and 20 barons have been elected by their orders.

The upper house consists, exclusive of the imperial family, of the following: Ten princes and 21 marquises, sitting by virtue of their titles; 15 counts, 70 viscounts, and 20 barons, elected by their orders; 46 members elected from the cities and prefectures.

There remain to be appointed by the Emperor 90 members, or a number equal to the whole number of the noble members, less 46, the number elected from the cities and prefectures and appointed by the sovereign. The upper house will therefore, when complete, consist of 272 members exclusive of the princes of the blood.

Only two of the present cabinet, Count Matsukata and Viscount Aoki, were elected by their orders to seats in the upper house. Count Ito, now out of office, was elected. Doubtless, Counts Okuma, Inouye, Yamagata, Yamada, Saigo, and many others who have held or are holding cabinet portfolios will be appointed by the Emperor. It was probably owing to the certainty of their appointment by the sovereign that more of the men who have taken so prominent and active a part in the advancement of Japan were not elected by their peers to seats in the upper house.

I have, etc.,

JOHN F. SWIFT.

[Inclosure 1 in No. 146.]

Election returns.

Parties represented in the lower house of the Japanese Parliament:

Independents, 95 members. So called, but likely to amalgamate ultimately into the real Conservative party, possibly something like the English Conservatives.

Daido-Ha, 54 members; Aikokuko-to, 23; Jiyu-to, 17; Kyushu Shimpoto, 13; Koin Club, 3; Various local factions, 17. These will inevitably amalgamate to form the Radical party.

Kaishin-to, 46 members. Originally Moderate Liberals. This party has no longer any *raison d'être*. It is almost sure to break up, a portion going over to the Radical camp and a portion to the Conservatives mentioned above.

Jichi-to, 12 members. This party has no *raison d'être* and must drift into the Conservative camp.

Various local factions which must drift into the Conservative camp, 15 members.

Total number of members of Parliament, 300.

[Inclosure 2 in No. 146.—From the Japan Daily Mail.]

Political parties in the Diet.

Writing under this heading the Koku-min-no-Tomo of the 3d instant reviews the position of the various political parties represented in the Diet. After reproducing statistical classifications of the members from four of the Tokio daily papers, the Hochi Shimbun, the Daido Shimbun, the Jiji Shimpoto, and the Kokumin Shimbun, our contemporary proceeds to observe that, much as these papers differ in respect of the numerical strength of the several parties in the Diet, men capable of judgment seem to agree in assigning the largest number to the so-called "Independents," who are followed in order by the Daido-ha, the Kaishin-to, and the Aikokuko-to. Thus, of all the parties, the Daido-ha has obtained the largest number of members. That it has been able to secure so many is attributed by our contemporary to the extremely

favorable circumstances under which it was brought into existence. It was organized on a very broad basis, and at a moment when the old Jiyu-to had for some time been dissolved, and the Kaishin-to was in a state of temporary torpor. When, further, it is remembered that the avowed object of the party was to attack the clan system of government, there is no wonder that it obtained the adhesion of all the politicians out of power and not belonging to the Kaishin-to. Thus the Daido Danketsu, as it was called before the breaking up of its ranks into three parties—the Aikokuko-to, the resuscitated Jiyu-to, and the Daido-ha—extended its influence over a wide area. Owing chiefly to these circumstances, the party succeeded in emerging from the late elections with much éclat, notwithstanding that its influence was weakened by the organization of the Aikokuko-to and the resuscitated Jiyu-to. Though numerically strong, the Daido-ha, as might be inferred from the manner in which it sprang into being, is not distinguished by any strong cohesion among the different elements composing it.

Our contemporary divides these elements into three classes: first, the center, which is composed of men more distinguished for audacity in changing with the changes of the times than for devotion to any particular cause or principle; secondly, the right wing, which contains men professing liberal principles; and thirdly, the left wing, which leans to conservatism. The Kokumin-no-Tomo admires the consummate skill of the center in maintaining apparent harmony among these incongruous elements. The Tokio Journal, however, shares the common belief that the Daido-ha is not destined to retain long its present influence. The right wing may readily be detached by Count Itagaki if only he sees his way to assume an attitude of greater liberality, while it would be easy for Viscount Tani to obtain the adhesion of the left wing. Thus the only portion of the party likely to remain true to its leader will be the wary center. Moreover, those members of the Daido-ha who are of the provinces of the northeast—and they form the majority of the party—are not, according to the view of the Kokumin-no-Tomo, by any means ardent in their attachment to Count Goto; neither are they as ambitious of political distinction as the members of the center. Our contemporary is persuaded to believe that, for the present at least, the members of the Daido-ha in the northeast will maintain an independent political organization of a liberal tendency after the fashion of the Shimpoto of Kyushu. As yet, however, the Daido-ha may justly be proud of the number of gifted members in its ranks. Especially in political maneuvers its members are far ahead of even those among the Kaishin-to, noted for their sagacity. In literary talent Mr. Suehiro Jukyo is most distinguished; in business capacity, Mr. Oye Taku; in political experience, Mr. Kono Hironaka; in legal ability, Mr. Suematsu (hitherto Komyoji) Saburo; and in boldness, Mr. Suzuki Shoji.

The Tokio Journal is sure that the members of the Daido-ha will distinguish themselves in the Diet more for skill in taking advantage of every turn of affairs than for constancy to any fixed policy. As to the resuscitated Jiyu-to, our contemporary observes that its influence in the Diet will be comparatively weak. But its members will not be disconcerted by this, as they have not been very solicitous of obtaining seats in the legislature. The Kokumin-no-Tomo, however, thinks it a very lamentable fact that the leader of the party, Mr. Oi Kentaro, was declared disqualified for sitting in the Diet. Among the members, the more celebrated are Messrs. Nakae Tokusuke, formerly editor of the Osaka Shinonome Shimbun; Shimazu Tadasada, president of the Nagano prefectural assembly; and Arai Shogo, of the "Osaka Affair" fame. The party will be unable to wield any formidable influence in the Diet, but as an adjunct to some of the larger parties it is certainly not to be alighted. Its closest affinities will probably be with the Aikokuko-to, concerning the future prospects of which our contemporary seems to entertain a highly favorable opinion. Its numerical strength in the Diet is not as great as that of the Daido-ha, but it is far stronger than the latter in respect of cohesion and combination. Its distinctive characteristic is sincere devotion to its political creed. From this point of view, the actions of its representatives in the Diet may be too scrupulous and unbending, but they will never, the Kokumin predicts, be open to a charge of inconstancy or tergiversation. The courageous Mr. Hayashi Yuzo, the solid Mr. Kataoka Kenkichi, the businesslike Mr. Takenonchi Tsuna, the logical Mr. Uyeki Emori, and the experienced Mr. Sugita are the more distinguished members. There is one circumstance, however, which our contemporary regrets for the sake of the party, namely, that the majority of its members are of Tosa origin. It has thus a somewhat exclusive appearance, and may on that account fail to find favor with the inhabitants of other localities.

The Tokio Magazine recommends Count Itagaki and his followers to take suitable measures to obviate this unfavorable impression. With regard to the Jichi-to, the Kokumin-no-Tomo observes that it is not by any means strongly represented in the Diet. Some people believe that it will be led in the lower house by Mr. Mutsu and in the upper by Viscount Aoki. Our contemporary is of opinion that this party labors under three serious disadvantages: first, its aristocratic associations; secondly,

its Choshu clan tendency; and thirdly, its "odor of silver" (love of money). It is not destined, we are told, to grow powerful, and our contemporary doubts very much whether a man of Mr. Mutsu's penetration really contemplates identifying himself with such a party. The Hoshu-to and the Kyushu Shimpō-to are nearly equally represented in the Diet, and must not be overlooked in any forecast of the political situation, because they are both rich in talented members. Mr. Kawashima Jun, of Kagoshima, Mr. Matsuda Masahisa, of Saga, and Mr. Yamada Buho of Kumamoto, are the most conspicuous members of the Kyushu Shimpō-to. The Hoshu-to can, on the other hand, boast of such distinguished names as those of Messrs. Sugiura Juko, Oyagi Būchiro, Motoda Hajime, and Sasa Tomofusa. Our contemporary persists in calling these persons Conservatives, though some of them strongly object to the title. With reference to the Kaishin-to, the Kokumin-no-Tomo observes that its failure to obtain a majority, or at least the largest relative number of members in the Diet, is the more significant, as it has endeavored ever since its first appearance to enlist the sympathies of men certain to possess the franchise. The cause of the failure is ascribed to its unfortunate record with regard to the question of treaty revision last year. It is to be regretted that men like Messrs. Koizuka Ryu, Tannoda Shūpei, Kato Masanosuke, Sunagawa Yushun, Yamada Ichiro, Ichishima Kenkichi, and Hadano Denzaburo were defeated at the late elections. Further, whatever may have been the cause of his decision, it is to be sincerely regretted, for the sake of the Kaishin-to, that Mr. Yano Fumio has retired from political life.

It is also unfortunate that Mr. Hatoyama, who is reported—though incorrectly, we (Japan Mail) believe—to have intimate connections with the Kaishin-to, was unable to obtain a seat in the Diet. Equally regrettable is the absence from the list of the elected of the name of Mr. Kato Takaaki, a confidential lieutenant of Count Okuma, though it should be observed that he made no attempt to canvass. Still, the Kaishin-to, with Messrs. Shimada Saburo, Ozaki Yukio, Fujita Mokichi, and Inukai Ki, at its head, is by no means an unimportant factor in the Diet. Its organization may appear to outsiders firm and strong, but those well acquainted with its affairs seem to doubt this, and even question whether it will be able to hold its different sections in the bonds of discipline in the Diet. Last year, when the question of treaty revision was agitating the public mind, the two great organs of the party, the Hochi Shimbun and the Mainichi Shimbun, were observed to adopt different and conflicting lines of argument on some important points. For instance, when Count Okuma endeavored to conciliate Count Ito and his followers by promising that the judges of foreign origin mentioned in the diplomatic note should be naturalized in Japan, the Hochi supported its leader, while the Mainichi argued as if little or no importance attached to the naturalization proviso. However, the Kokumin hopes that the leaders of the party, taught by the experience of last year, may take precautions against a repetition of such fatal errors. As to the so-called "Independents," our contemporary ridicules the notion attributed to some of them, of forming themselves into a distinct party on an independent platform; for the "Independents," though spoken of as one class, are an extremely heterogeneous body, being composed of men of all kinds of political creeds, from extreme conservatism to extreme radicalism.

Lastly, as to the proposed alliance of the progressive parties, the Kokumin-no-Tomo considers that the settlement of this question will decide the political situation for the present, at least since a union of all the parties would mean 173 votes in a house of 300. Many persons doubt whether the Daidō-ha will join the alliance, but, even excluding that party, and supposing that one-fourth of the "Independents" are won over, there still remain 135 votes, a formidable number when we consider that the rest of the house is divided into several separate parties. Our contemporary does not believe that the alliance, even if successfully formed, will last long; neither does it believe that the existing parties will long remain in their present condition. A time will come when entirely new parties with intelligible platforms will be formed out of the present associations, the latter being only provisional in their nature. At present the best course for the progressive parties to adopt, in the opinion of the Kokumin, is union, for thus and thus alone will they be able to effect what they desire to accomplish in the coming Diet. Union, however, does not look at all as probable now as it did a fortnight ago.

[Inclosure 3 in No. 144.—From the Japan Daily Mail.]

Law of meetings and political associations.

LAW NO. 53.

We hereby give our sanction to the present regulations relating to the law of meetings and political associations (*Shukwai oyobi Seisha-ho*), and order the same to be promulgated.

(His Imperial Majesty's sign manual.)

(Great seal.)

Dated July 25, 1890.

(Countersigned.)

COUNT YAMAGATA ARITOMO,
Minister President of State.
COUNT SAIGO TSUKUMICHI,
Minister of State for Home Affairs.

ARTICLE 1. "Political meetings" in this law mean meetings assembled in public for the delivery of lectures and the discussion of matters relating to politics, whatever such meetings may be called; "political associations" include all organized bodies with objects relating to politics, whatever names such associations may bear.

ART. 2. Each political meeting shall be arranged for by a projector. When it has been decided to hold a meeting, the projector shall intimate the fact to the police station of the district where the place of meeting is 48 hours before the opening of the meeting. On such intimation being made, the police station shall at once acknowledge its receipt of the same. The place and date, the name of the projector of the meeting, as well as the names, residences, and ages of the speakers or lecturers, shall be mentioned in the above letter of intimation (*todokesho*), and the signature and seal of the projector shall be affixed to the same. The effect of the intimation (*todoke-ide*) shall cease if the meeting be not opened within 3 hours after the period mentioned in the same.

ART. 3. No person other than adult male subjects of Japan in the possession of public rights (*koken*) can be the projector of a political meeting.

ART. 4. Soldiers of the army or seamen of the navy, on service, or with the first and second reserves when mobilized, police officials, instructors and students of Government, public, and private schools, infants, and women are not permitted to assemble in political meetings. In the case of meetings which may be open to make preparations for the election of members of an assembly organized by law, the restrictions of this article shall not apply to those who have the right of electing or of being elected during the 30 days which precede the date of voting.

ART. 5. No foreigner can speak or lecture in political meetings.

ART. 6. No political meeting can be held in the open air.

ART. 7. Should it be intended to assemble in public or to hold a procession in the open air, the projector of the same shall intimate the place of assembly, the date, and the road through which it is intended to pass, to the police station of the district, 48 hours beforehand and obtain permission for the same. This regulation shall not, however, apply to festivals, religious celebrations, or clubs, the games of students, or other occasions which are recognized by custom and usage. Police stations may not give permission should injury to peace and order be apprehended. Police stations may prohibit meetings and movements of crowds in the open air in any case, should the same be deemed injurious to peace and order.

ART. 8. No meeting or movement of a crowd (procession) in the open air is allowable during the time from the opening till the close of the houses, within a radius of 3 miles of the Imperial Diet. The additional sentence of paragraph 1, article 7, shall also be applied in the case of this article.

ART. 9. A police station may detail constables in uniform who shall attend political meetings and regulate the same.

Projectors of political meetings shall supply to the police attending the meetings any seats demanded by them, and shall answer whatever questions relating to such meetings may be asked by them. The attendance and superintendence of the police referred to in the first paragraph of this article may take place in the case of meetings deemed to be injurious to peace and order.

ART. 10. No person can attend any assembly carrying arms or lethal weapons. Persons who carry arms in accordance with regulations are, however, excepted.

ART. 11. No meetings are permitted to be held where speeches are delivered to shield criminals, or to protect or congratulate persons guilty under the criminal law, or persons *pendente lite* of a criminal court, or to instigate the commission of crime.

ART. 12. Police officers may challenge any who willfully conduct themselves in a tumultuous or turbulent manner, and, if such do not observe their orders, may expel them from the hall.

ART. 13. Police officers may order the dissolution of a meeting in the following cases:

(1) When the existence of the meeting is a contravention of any of the provisions of this law.

(2) When article 11 is contravened, or the meeting is deemed to be injurious to peace and order.

In the latter case the speech or discussion of a particular person may be suspended without entirely suspending the proceedings.

(3) When the attendance of the police is opposed, or their seats are not provided at their request, or their questions are not answered.

(4) When the persons assembled are tumultuous and do not become quiet when ordered to do so.

(5) When a number of persons contravene articles 4 and 10 and do not observe the orders of the police to leave the hall.

ART. 14. Should political meetings be held without the communication mentioned in article 2 being made, the projectors shall be punished by fines of not less than 10 yen and not more than 100 yen, and the persons who lease the hall shall be similarly punished.

ART. 15. Should the information mentioned in article 2 be false, projectors shall be punished as prescribed in the previous article.

ART. 16. Any person who contravenes article 3, or who assembles in contravention of article 4, and any projector who does not prohibit them from doing so, shall be punished by fines of not less than 2 yen and not more than 20 yen.

The penalty on projectors who contravene article 5 shall be similar to that in the last paragraph.

Projectors who cause persons prohibited from assembling in a political meeting to so assemble by enticing or inducing them shall be liable to punishment one degree heavier than that mentioned in paragraph 1 of this article.

ART. 17. Projectors and speakers who contravene article 6 shall be punished by minor imprisonment for not less than 11 days and not more than 6 months, or by fines of not less than 5 yen and not more than 50 yen.

ART. 18. For contraventions of article 7, projectors or instigators shall be punished by fines of not less than 10 yen and not more than 100 yen.

ART. 19. For contraventions of article 8, projectors and instigators shall be punished by minor imprisonment for not less than 11 days and not more than 6 months, or by fines of not less than 10 yen and not more than 100 yen.

ART. 20. Contraventions of article 10 shall be punished by minor imprisonment for not less than 11 days and not more than 6 months; projectors who fail to prohibit such contravention shall be similarly punished.

ART. 21. Contraventions of article 11 shall be punished by fines of not less than 20 yen and not more than 200 yen, or by minor imprisonment for not less than 1 month and not more than 6 months.

ART. 22. Persons who refuse to leave a meeting when ordered to do so, or who refuse to obey the orders of the police dissolving a meeting, shall be punished by minor imprisonment for not less than 11 days and not more than 6 months, or by fines of not less than 2 yen and not more than 20 yen.

ART. 23. Political associations shall be controlled by officials (*yakuin*). Each political association shall intimate its name, its officials, and members to the police station of the district where its office is situated, through the medium of its officials, within 3 days after its formation. The same process is necessary when any change occurs in the matters to be reported as above. Police stations shall at once intimate the receipt of the information above mentioned. Officials shall answer whatever questions relating to the association the police may ask.

ART. 24. When a political association shall open a meeting for the delivery of political speeches, article 2 shall be observed. Meetings held at fixed times, and the places and speakers of which are settled beforehand, need not be reported to the police when intimation has been made of the first meeting, always provided such intimation be made 48 hours before the first meeting. Should changes occur in the matters to be reported, article 2 shall be observed.

ART. 25. Soldiers or seamen on service, or in the first or second reserve when the same are mobilized, police officials, instructors, and students of Government, public, and private school, infants, women, and males who do not possess public rights may not become members of political associations.

ART. 26. Foreigners are prohibited from becoming members of political associations.

ART. 27. Political associations may not use marks or flags.

ART. 28. Political associations may not influence the public by issuing documents or sending deputies, or establish branch offices, or combine and correspond with other political associations.

ART. 29. No political association is permitted to establish rules making members of any assembly organized by law responsible for their utterances or votes outside said assembly.

ART. 30. Should any political association be deemed injurious to peace and order, the minister of state for home affairs may suspend or prohibit it; should such association fail to dissolve when ordered, the offenders shall be punished by minor imprisonment for not less than 2 months and not more than 2 years, or by fines of not less than 20 yen and not more than 200 yen.

ART. 31. Should the necessary report (*todokeide*) of a political association be omitted, or the questions of the police be not answered, in contravention of article 23, the officials shall be punished by fines of not less than 10 yen and not more than 100 yen.

Should the information mentioned in article 23 be false, or a false answer be given to any question, punishment one degree heavier than that mentioned in the last paragraph shall be inflicted.

ART. 32. Persons who have become members of any political association, or officials who have caused them to do so, in contravention of article 25, shall be punished by fines of not less than 2 yen and not more than 20 yen. Officials who contravene article 26 shall be similarly punished.

ART. 33. Persons who use marks or flags, in contravention of article 27, as well as officials of the association concerned, shall be punished by fines of not less than 2 yen and not more than 20 yen.

ART. 34. For contraventions of article 28 the offending officials or deputies shall be punished by minor imprisonment for not less than 1 month and not more than 1 year, or by fines of not less than 5 yen and not more than 50 yen.

ART. 35. Persons who are actually officials of associations or projectors of meetings, shall be conjointly responsible as officials or projectors, without respect to the name used, whether such name be that of one person or of several and other persons.

ART. 36. Offenses against this law shall not be treated under the rule as to simultaneous offenses (*susai guhatsu*).

ART. 37. The period of prescription for prosecutions under this law shall be 6 months.

ART. 38. Meetings regulated by laws and ordinances shall not be dealt with under this law.

CORRESPONDENCE WITH THE LEGATION OF JAPAN AT WASHINGTON.

Mr. Sato to Mr. Blaine.

LEGATION OF JAPAN,
Washington, March 7, 1890. (Received March 8.)

SIR: I am instructed by His Imperial Majesty's minister for foreign affairs to bring to your notice a matter which has been made the subject of written and verbal communication between himself and the United States minister at Tokio.

The China and Japan Trading Company, an American firm doing business at Yokohama and several other treaty ports, began last year to import into Japan a medicinal preparation known as "Scott's Emulsion." This medicine was extensively advertised in the Japanese newspapers, and a number of Japanese merchants began to sell it; but they were informed by the local authorities, first at Osaka and afterwards at Tokio, that the emulsion came within the description of a "licensed medicine" as set forth in the regulations for the sale of "licensed medicines," and that consequently they must obtain the license prescribed by those regulations. The China and Japan Trading Company thereupon complained to the United States minister, and on the 13th of last September Mr. Swift addressed a communication to Count Okuma, wherein he gave it as his opinion that the action of the Japanese authorities was in contravention of the treaty of 1858 between Japan and the United States, more especially of articles III and IV. On the

4th of October Mr. Swift again addressed Count Okuma, requesting a reply to his letter of September 13, and stating, further, that he had been informed that an ad valorem excise tax of 10 per cent. was levied upon licensed medicines, and that since the date of his first communication, which had reference to the action of the authorities of Osaka Fu, the sale of "Scott's Emulsion" had been "authoritatively prohibited" in Tokio.

In reply to these communications, Mr. Swift was informed by Viscount Aoki that the department of foreign affairs had instituted an investigation immediately upon the receipt of his first note, and had only awaited a report from the proper authorities before replying thereto. The question in regard to the excise tax raised in Mr. Swift's second note would, Viscount Aoki added, necessitate further investigation, but no unnecessary delay would be permitted to intervene.

On the 17th of January Viscount Aoki wrote again to Mr. Swift, stating the result of his investigation, and setting forth the opinion of the Imperial Government in relation to the complaint of the China and Japan Trading Company.

From the reports received at the department of foreign affairs, it appeared that the local authorities at Osaka had directed certain Japanese subjects who were selling "Scott's Emulsion" to obtain a license permitting them to sell the same as a licensed medicine; and that in Tokio the local authorities had not directly prohibited the sale of the emulsion, but had warned the Japanese merchants engaged in the business that they must obtain a license in accordance with the provisions of the "Regulations for the sale of licensed medicines." It was believed that as the emulsion was a combination of cod-liver oil with certain drugs, such as hypophosphites of lime, soda, glycerine, etc., intended for direct use as a remedy for certain kinds of diseases, and accompanied by directions for use, it clearly fell within the description of that class of medicines for the sale of which special licenses are required by the regulations. For this reason Viscount Aoki informed Mr. Swift that the Imperial Government would not be justified in regarding "Scott's Emulsion" as an ordinary article of commerce, but are obliged to require all Japanese subjects who may desire to sell it to obtain from the local authorities licenses permitting them to deal in licensed medicines.

In reply to Mr. Swift's opinion that the action of the Imperial Government in thus requiring Japanese subjects to obtain licenses for the sale of certain articles imported from the United States, and to pay certain license fees and excise taxes thereon in accordance with Japanese law, is in contravention of articles III and IV of the treaty of 1858, Viscount Aoki observed that, as the Japanese Government had never prohibited the sale of "Scott's Emulsion" by any Japanese subject, it did not seem to him necessary to enter into a discussion of article III of the treaty, which provides that Japanese subjects may sell any articles sold to them by citizens of the United States. Nor did Viscount Aoki think that the stipulations of article IV had any bearing upon the question. The fifth paragraph of that article provides that "imported goods which have paid the duty imposed by this treaty may be transported by the Japanese into any portion of the Empire without the payment of any tax, excise, or transit duty whatever." This clause, in the opinion of the Imperial Government, can only be construed to mean that all goods imported from abroad may be transported by Japanese into any part of the Empire, and such goods shall not be liable to pay any tax in the interior of the country on account of their transportation, provided the customs duties have already been paid. There is a marked difference be-

tween a declaration to the effect that no tax shall be paid on account of transportation and a stipulation that no tax shall be levied in respect of the sale, use, or consumption of goods. The use of the qualifying phrase "may be transported," clearly demonstrates the limits of the inhibition, and Viscount Aoki consequently expressed the conviction that the action of the Imperial Government in requiring every Japanese subject who may sell "Scott's Emulsion," to act in compliance with the provisions of the law, which are equally applicable to all medical preparations, both foreign and domestic, falling within the description of licensed medicines, is in nowise contrary to the terms of the treaty.

On the 23d of January Mr. Swift called at the foreign office and had an interview with Viscount Aoki in regard to the complaint of the China and Japan Trading Company. At its close Mr. Swift expressed the intention of preparing a précis embodying his understanding of what had been said. On the 28th of January he accordingly sent a précis to Viscount Aoki, saying in the note which accompanied it, and which was dated January 24, that if he heard no objection from Viscount Aoki before the departure of the next mail he would take the liberty of assuming that his understanding and recollection of the interview were substantially correct, and would forward the précis to the United States Government. The mail for the United States, succeeding the date of Mr. Swift's note had actually been closed in Tokio when his note was received at the foreign office, but, aside from this, Viscount Aoki felt constrained by considerations so obvious as to need no explanation to withhold his assent from Mr. Swift's suggestion. This course seemed all the more necessary because in several particulars Mr. Swift's précis differed from his own recollection of the interview. In one important regard the difference was so radical as to require specific notice. I refer now to the clause in Mr. Swift's précis wherein Viscount Aoki is quoted as saying that "he could not take into account what the American people might feel or think," and that "the rights and interests of Japan alone were the subject of his concern." In a note dated the 6th of February, Viscount Aoki sent to Mr. Swift a précis of the interview of the 23d of January prepared by the gentleman who acted as interpreter on that occasion. He assured the American minister that he had no recollection whatever of having used the expression above quoted, and stated that if any words bearing such a construction had escaped from him during the interview, they would have been contrary to his own sentiments and opposed to the sentiments of the Imperial Government.

Viscount Aoki also stated that, in deference to Mr. Swift's expressed disinclination to discuss the merits of the question of the right of the Imperial Government to impose an internal tax upon imported licensed medicines, he would, of course, refrain from presenting to him those important considerations upon which the decision of the Imperial Government was predicated. He added, however, that His Imperial Majesty's Government valued the friendship and good opinion of the United States too highly to permit the Cabinet at Washington to remain in ignorance of those considerations, and that consequently he deemed it his duty to communicate to the Government of the United States through this legation.

Acting under instructions which are the result of the foregoing circumstances, I have now the honor to transmit copies * of the correspondence to which I have alluded, including the précis of Viscount

*For these inclosures see inclosures in Mr. Swift's dispatches Nos. 88 and 91, dated February 5 and 16.

Aoki and that of Mr. Swift. A perusal of these documents will enable you to clearly understand the attitude of His Imperial Majesty's Government, which, I trust, you will find it possible to agree is in accord with a suitable observance of the rights of Japan and in no sense antagonistic to the interests of the United States.

His Imperial Majesty's Government would have me, in the first place, express their deprecation of any misapprehension which might arise concerning their action in enforcing the laws of Japan so far as regards articles of American production or importation. Generally speaking, the history of their past relations with the United States gives no occasion for a misconstruction of their motives or intentions in this behalf; and so far as the particular case under consideration is concerned, the circumstances themselves are a sufficient refutation of the statement that the Japanese Government have selected an article of American manufacture whereon to essay a new interpretation of the treaties. The law complained of was intended to be universal in its application, and whenever any questions have arisen under it, or under similar statutes, the rulings of the Imperial Government have been uniform and in harmony with the present decision. All Japanese subjects who may sell any medicinal preparation which properly comes under the classification of a licensed medicine, whether it be of domestic or any foreign manufacture, are required to use proper stamps on such medicinal preparation, according to the "stamp-tax regulations for the sale of licensed medicines;" but if they should attempt to sell such medicinal preparation, without using the stamps, against the said regulations, the local authorities may prohibit its sale, whether it be of domestic or any foreign manufacture.

As regards the construction to be placed upon article IV of the treaty of 1858, the Imperial Government are at a loss to discover anything in that article which affects their rights in the premises. It seems clear to them that the object of the fifth paragraph of the article was intended to prevent the imposition in Japan of any transit dues upon articles of American importation. The use of the phrase "may be transported" clearly defines and limits the intention of the stipulation. There were no internal-revenue taxes, strictly speaking, in existence in Japan at the time the treaty was negotiated, while, on the other hand, there prevailed in China a most elaborate system of transit dues, styled "likin." Upon the inauguration of treaty relations with the then almost totally unknown Empire of Japan, nothing was more natural than that the foreign negotiators should be guided somewhat by their experience with the near neighbor of Japan, China, and should endeavor to guard against a system of taxation like the "likin," which experience had shown to be a potent means of restraining the growth and extension of foreign commerce with China. It seems clear from the context, not alone of the treaty with the United States, but also from similar provisions in the treaties with other western powers, that it was this specific tax alone which was sought to be prohibited, and not any such method of internal taxation as is under consideration.

These are a few, though not by any means all, of the reasons which led the Imperial Government to believe that in imposing taxes under the provisions of the regulations for the sale of licensed medicines they are clearly within their rights. But while the Imperial Government entertain these views, and feel confident that the Government of the United States may agree with them, they would not have it understood that they would inflexibly adhere to their opinion or hesitate to abolish the internal taxes upon the imported licensed medicines if it can be con-

clusively shown that they are not altogether correct in their conclusions. What they especially desire is the expression of the views of the United States upon the subject, to which, as I hardly need assure you, Mr. Secretary, they will give that careful and respectful consideration which is their due.

Accept, etc.,

ATMARO SATO.

Mr. Blaine to Mr. Sato.

DEPARTMENT OF STATE,
Washington, March 18, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, in explanation of the action of your Government in imposing taxes upon the sale in Japan of an American preparation or article of commerce known as "Scott's Emulsion."

At the date of the reception of your note the subject had been under consideration in the Department upon the report made by Mr. Swift of his correspondence with the Imperial Government. I have fully considered your note in connection with that report and correspondence, and regret to say that the arguments which you so earnestly and ably present to justify the action of the Japanese Government do not remove the impression created by that correspondence and by the ascertained facts, that the levying of the taxes in question is a direct violation of the treaties.

The Department has given the subject anxious consideration, and Mr. Swift has, in the usual course, been instructed to make a full communication of the views of this Government to the imperial minister for foreign affairs.

Accept, etc.,

JAMES G. BLAINE.

Mr. Sato to Mr. Blaine.

LEGATION OF JAPAN,
Washington, July 28, 1890. (Received July 29.)

SIR: Referring to your note under date of the 18th March, 1890, in reference to the question of the right of the Imperial Government to levy a license and internal or stamp tax on an American medical preparation known as "Scott's Emulsion," I have the honor to inform you that I have received an instruction from Viscount Aoki, His Imperial Majesty's minister of state for foreign affairs, on the same subject, dated the 5th instant, and setting forth the reasons why the Imperial Government find it impossible to concur in the view of the United States Government, as so ably defined in your instruction to the United States minister in Tokio, under date of the 18th March last, which was transmitted by him to the viscount.

As directed by Viscount Aoki, I beg to inclose herewith a copy of his instruction to me, and at the same time take pleasure in complying with his instruction to express to you the hope that the assurances he

has given will satisfy the Government of the United States of the perfect good faith of the Imperial Government and of the entire absence of any desire on their part to discriminate in any wise against the Government or citizens of the United States.

I avail, etc.,

AIMARO SATO.

[Inclosure.—Translation.]

Viscount Aoki to Mr. Sato.

DEPARTMENT OF FOREIGN AFFAIRS,

Tokio, the 5th day of the 7th month, 23d year of Meiji (July 5, 1890).

SIR: I have to acknowledge the receipt of your two dispatches, Nos. 15 and 16, bearing date the 15th and 27th March, 1890, respectively, in which you inform me of the steps taken by you in pursuance of my instruction No. 13 of the 7th of the previous month, in reference to the question of the right of the Imperial Government to levy a license and internal or stamp tax on an American medical preparation known as Scott's Emulsion. Your action as reported is approved.

On the 28th April last I received from the United States minister at this court the copy of an instruction on the same subject, which had been addressed to him by the honorable the Secretary of State of the United States, under date of the 18th March, 1890. I inclose for your information a copy of that instruction, as well as copies of Mr. Swift's covering note and my reply thereto of even date, herewith.

The conclusions arrived at by Mr. Blaine are, you will not fail to observe, identical with the opinions contained in his note to you of the same date.

The ability and clearness displayed in the presentation of the considerations upon which these conclusions are predicated are recognized; nevertheless, I find it impossible to concur in the view that in levying the taxes in question the Imperial Government are exceeding their right.

The right of taxation is, it must be admitted, a sovereign right, inherent in every independent state, and the real question at issue in the present case is: How far has the right of Japan in that behalf been *de facto* and *de jure* limited or qualified by conventional stipulations?

Mr. Blaine has, however, suggested, as bearing upon the case, several collateral considerations, which it is well to dispose of before entering upon a discussion of the main question.

He declares that in consequence of the imposition of the license and stamp taxes in question upon Scott's Emulsion, Japanese merchants were unable any longer to deal in the preparation, and were compelled to return the stock on hand to the importers.

Having in view the resolution taken by certain Japanese dealers in Tokio, which resolution was frankly explained to Mr. Swift in my note of the 17th January last, I am constrained to think that the imposition of the license and stamp tax may have occasioned some temporary inconvenience, but whatever momentary and local effect the action of the Imperial Government may have had on the sale of Scott's Emulsion, I am happy to be able to show that no permanent injury to the trade was caused thereby.

I inclose herewith two marked copies of the *Nichi Nichi Shimbun*, one of the leading Tokio journals. These inclosures bear date the 26th August, 1889, and the 25th May, 1890, respectively. The items marked are the China and Japan Trading Company's advertisement of Scott's Emulsion. The former, which bears date just prior to the opening of the present discussion, contains the names of eleven authorized retail Japanese agents for the sale of the preparation, while the latter gives the names of seventeen retail and two wholesale agents. Similar announcements, emanating from the same source, have appeared in most of the prominent newspapers in the Empire, and the fact that all the agents now dealing in the article have, without exception, fulfilled every requirement of law in respect of licenses and taxes certainly justifies the assumption that there has been at least a corresponding increase in the sale of that commodity, and will also, I venture to hope, dispel the apprehensions entertained by the Government of the United States that the levying of the license and stamp taxes upon Scott's Emulsion will have the effect of causing a decrease in the consumption of that article.

In the same connection Mr. Blaine declares that a Japanese imitation of Scott's Emulsion has been placed on the market and is having an extensive sale. It is true the honorable Secretary attributes the use of the simulated article in place of the

original medicament very largely to the previous advertising of the American commodity by the importers, but he would hardly have drawn attention to this phase of the question in the context in which it appears, in his communication now under reply, had he not supposed that the imposition of the license and stamp taxes upon the imported preparation had measurably contributed to bring about the conjuncture to which he alludes. It can not be denied but what that presumption would have been well founded if the Imperial Government had in the matter of taxation discriminated in favor of the Japanese preparation and against its American prototype. The Imperial Government were not aware of the existence of the imitation complained of until the receipt of the communication now under reply, and in the absence of specific information they have failed to discover it; but, assuming that it does exist, the fact that the Japanese imitation equally with the original article is subject to the revenue laws of the Empire, and that no exemption can be claimed in favor of one that can not be equally enjoyed by the other, will, I am confident, induce Mr. Blaine to agree with me that the imposition of the same taxes upon Scott's Emulsion as are leviable upon any imitation of that article can not, relatively speaking, work to the disadvantage of the imported preparation.

Mr. Blaine also asserts that the present contention of the Imperial Government is in conflict with the uniform practice of the Japanese Government during the 30 years the treaty of 1858 has been in operation, and he thereupon expresses the conviction that if the Imperial Government possess the power now claimed by them, the efforts on the part of Japan to secure a readjustment of her conventional tariff are misdirected and unnecessary.

Both of these propositions were raised by Mr. Swift in our interview of the 23d of January. I did not then attempt at length to controvert them. The date of the law in question, and the essential difference in principle between customs duties and internal taxes, and the impossibility in practice of substituting one system of taxation in place of the other rendered, it seemed to me, an exhaustive discussion of the question unnecessary. The revival of the contention at the present time, however, serves to demonstrate the inaccuracy of my assumption.

The law prescribing for the first time in the history of Japan a stamp tax on licensed medicines was promulgated on the 27th of the 10th month of the 15th year of Meiji. It has only been in operation a little over 7 years, and consequently there can be no question of an uniform practice extending over a period of 30 years.

The duty of collecting the Imperial revenues devolves upon the local authorities, and while the Imperial Government have never given any ruling inconsistent with their present claim, it is not unlikely that in the local application of the law referred to there has been some diversity of interpretation. The present discussion has, however, had the effect of causing His Imperial Majesty's Government to enter upon a careful investigation of the question, and I am consequently able to declare that whatever local diversity of construction did exist has absolutely and finally disappeared, and that every medical preparation, without exception, coming within the purview of the law in question, domestic as well as foreign, and irrespective of the place of production or consumption, or the nationality of the manufacturer or importer, is, when brought into consumption in Japan, subjected to the prescribed stamp tax, and that every Japanese trader dealing in any such preparation is required to take out the prescribed license and to pay therefor the prescribed license fee.

In reference to the next point raised by Mr. Blaine, I wish to say that I find myself unable to admit that the recognition of Japan's right to levy an excise tax upon imported articles would satisfy the demands of the Imperial Government in connection with the revision of their conventional tariff.

A customs import duty is a tax imposed solely upon imports, and, whether the object of the tax be revenue or protection, the inevitable consequence is a discrimination to the extent of the tax against imported articles as compared with domestic production. An excise or internal tax is, on the other hand, a tax levied primarily on domestic articles. In order, however, to maintain the differential treatment between domestic and imported productions, created by the customs tariff and to prevent fraud, the tax is incidentally applied as well to imports.

While the fiscal and economical policy of a state alone determines what imports shall be subject to its statutory tariff, there are but few articles that readily lend themselves to a system of internal taxation, and in the selection and classification of those articles no government has displayed greater discernment than the United States. I need, therefore, offer no explanation for appealing finally to the action of the American Government in support of my contention.

By section 2504 (p. 480) of the Revised Statutes of the United States, imported "proprietary medicines" were made subject to an import duty of 50 per centum ad valorem. The same medicines were in addition compelled, under section 3435 (p. 677) of the same statutes, to pay a stamp tax. It is true the law imposing the stamp tax upon "proprietary medicines" has been repealed, but that fact does not affect the principle,

as several other articles of import are, I am given to understand, still subject under the revenue laws of the United States to the dual system of taxation. It may be urged that the positions of Japan and the United States, so far as the right of taxation is concerned, are not identical, for the reason that one power is bound by a conventional tariff, while the other enjoys perfect tariff autonomy. The distinction can not, of course, be denied; but that aspect of the question will be discussed later on in this instruction. My present object in referring to the action of the United States is to show that in practice that power does not even regard its own excellent system of internal taxation as a satisfactory substitute for customs duties, otherwise it would hardly go to the expense and trouble of levying two separate and distinct duties on the same article of import.

Under the tariff at present in force in Japan, prepared medicines are upon importation liable to a customs duty of 5 per cent. upon the original cost. To the extent, therefore, of that duty the domestic production was accorded in the markets of Japan an advantage over the imported article, and the Imperial Government are, it seems to me, clearly within their right in imposing upon the imported article such an internal tax as will maintain the relation established by the tariff between imported and domestic prepared medicines. Nothing more than this has been attempted by His Imperial Majesty's Government, and, although they are constrained to think that the existing tariff is in many respects obsolete and irresponsible to the requirements of Japan's present foreign commerce, the Imperial Government have no intention or desire to evade or supplement its provisions by indirect means.

The estimated revenue derivable from the internal tax on prepared medicines for the current fiscal year is 435,710 yen. During the year 1889, the total value of imported prepared medicines did not exceed 25,000 yen.

Assuming that no change in that trade occurs during the present year, a simple calculation will show that out of a revenue of 435,710 yen from prepared medicines the imported article will not contribute more than 2,500 yen. If anything in addition to the assurances I have already given were needed to show that the real object of His Imperial Majesty's Government in enacting the law in question was the taxation of domestic, not imported, medicines, I can not doubt but what these figures would be regarded as conclusive.

In discussing the question of the right of the Imperial Government to levy a stamp tax upon imported articles in common with domestic productions, I do not deem it necessary to restate the arguments drawn from the verbal construction of the treaty of 1858, which have already been presented for the consideration of the United States Government. It is, however, proper for me to say in that connection that I have given the question further careful consideration, and that that consideration has only served to strengthen the conviction previously entertained by me on the subject. And that conviction, I may add, is reinforced by the fact that the tax in question could not have been contemplated when the treaty of 1858 was made, unless the restoration, which occurred 10 years later, could have been foreseen, because the system of government then in operation absolutely precluded the possibility of the imposition of such a tax.

At the present time over 15,000,000 yen, or nearly one-quarter of the entire ordinary revenue of the Empire accruing on account of imports, is derived from internal taxes on *Saké*. Those taxes taken together are about equal to 30 per cent. of the original value of the *Saké* in respect of which they are imposed. The customs duty on imported *Saké* is only 5 per cent. ad valorem. If imported prepared medicines are entitled under the treaty to exemption from all internal taxation, it follows that imported *Saké* can properly claim the same immunity, and thus by manufacturing *Saké* abroad and importing it into Japan—an undertaking which, with an advantage of 25 per cent. in the matter of taxation, could be profitably carried on—the entire revenue system of the Empire would be destroyed.

Again, if it be admitted that the provision in article III of the treaty of 1858 which accords to Japanese the right to keep, to use, and to traffic in articles sold to them by Americans prohibits the Imperial Government from imposing the tax in question, then it must be concluded as well that by the same stipulation His Imperial Majesty's Government are prevented not only from extending to any article, domestic or foreign, acquired by a Japanese from an American the reasonable and wholesome laws of the Empire concerning, for instance, the sale or use of obscene and seditious literature, adulterated drugs and medicines, and tainted food, but from enacting and putting into general operation cattle and plant quarantine regulations, and, in short, from adopting many of those administrative, police, and sanitary measures which it is not only the sovereign right, but the supreme duty, of every independent state to adopt.

You correctly interpreted the sentiments of the Imperial Government when you assured the Secretary of State His Imperial Majesty's Government would not hesitate to abolish the tax in question if it could be shown that in levying it they were not clearly within their right. If those portions of articles III and IV of the treaty of 1858, to which Mr. Blaine refers, were only susceptible of the interpretation which the United

States Government has placed upon them, and if the consequences which I have already foreseen would logically flow from that interpretation, then certainly the Imperial Government would not be justified in regarding themselves as bound by those stipulations.

Fortunately, however, it is unnecessary at the present juncture to deal with eventualities or to appeal to the postulate that no independent sovereign state can alienate its general right of internal taxation or evade by international engagements the solemn duty of preserving the peace and protecting the lives, property, and morals of its subjects. On the contrary, His Imperial Majesty's Government are satisfied to rely solely upon what they are constrained to think is a fair and equitable construction of their conventional engagements. But should it be deemed desirable hereafter to widen the range of discussion, the Imperial Government, in support of their contention, will appeal to no authorities with greater confidence than they will to the official utterances of those eminent American statesmen who, by their writings, have done so much to elevate and to render more liberal and exact the principles of international law.

You are instructed to leave a copy of this communication with the honorable the Secretary of State, and to express to him the profound hope entertained by His Imperial Majesty's Government that the assurances which I have been happy to be able to give will satisfy the Government of the United States of the perfect good faith of the Imperial Government and of the entire absence of any desire on their part to discriminate in anywise against the Government or citizens of the United States.

With respect, etc.,

VISCOUNT SUIZO AOKI,
His Imperial Majesty's Minister of State for Foreign Affairs.

MEXICO.

Mr. Ryan to Mr. Blaine.

No. 179.]

LEGATION OF THE UNITED STATES,
Mexico, December 5, 1889. (Received December 13.)

SIR: Referring to this legation's dispatches Nos. 164 and 166 of the 15th and 16th of November last, I beg to submit further correspondence bearing on the case of Captain Stilphen, of the American schooner *Robert Ruff*. You will observe that Captain Stilphen is out on bail, and that Mr. Mariscal has requested, through the Treasury Department, a speedy settlement of the matter.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 179.]

Mr. Hoff to Mr. Ryan.

CONSULATE OF THE UNITED STATES,
Vera Cruz, November 13, 1889.

SIR: This morning I received the following telegram:

"COATZACOALCOS, 13TH

"HOFF:

"*Vera Cruz, etc.:*

"Last voyage Stilphen, *Robert Ruff*, was boarded outside by American citizen Patton, who asked passage home and was taken. Short while after another boat came up to *Ruff*. One party in boat exhibited piece of paper, but did not come on board. He spoke Spanish, which was not understood by captain. Apparently desired Patton, but as all in boat were in citizens' clothes *Ruff* kept on the course. Patton was wanted for assault and battery, but had not been arrested. Stilphen, *Ruff*, now here and is to be arrested. What must he do?

"CARPENTER."

I then sent back the following message:

"Shall I send your message to Minister Ryan? Did Stilphen hinder them from taking Patton? Was he 3 miles from land?

"HOFF."

I then received the following message:

"COATZACOALCOS, 19TH.

"Send message to Ryan. Did not hinder them. About 9 miles from land.

"CARPENTER."

I then sent the following message:

"Hon. THOMAS RYAN,

"*Envoy Extraordinary and Minister Plenipotentiary, Mexico:*

"At Coatzacoalcos they arrested Captain Stilphen, of schooner *Robert Ruff*. Last voyage an American citizen, Patton, asked passage home and was taken on board. Nine miles from land a boat came alongside the schooner and apparently wanted Patton, but did not come on board, and no one hindered them. They now arrest captain, as they say Patton committed assault and battery. Will write particulars.

"HOFF."

Captain Stilphen I have known for a long time, and have only known him as an honest, sober, industrious man, and am satisfied that it was no fault of his that he is there. In all my dealings with him I always found him a model captain and have in a number of cases pointed him out as such. I always found him on board of his vessel attending to his business, and not in the saloons, but where his business called him or his presence was wanted. I feel in hopes that you will do all in your power to have him released.

I have, etc.,

JOSEPH D. HOFF.

[Inclosure 3 in No. 179.]

Mr. Whitehouse to Mr. Mariscal.

Unofficial.]

LEGATION OF THE UNITED STATES,
Mexico, November 22, 1889.

DEAR MR. MARISCAL: When I spoke to you recently about the case of Captain Stilphen, of the schooner *Robert Ruff*, you very kindly said that you fully appreciated the immense loss any delay was in the matter of ships, and volunteered to telegraph to the authorities in order that all unnecessary annoyances or delays might be spared the captain.

I am in receipt of a telegram from Captain Stilphen (from Minatitlan) stating that the authorities have stopped his vessel loading.

Would it be possible to permit the captain to continue loading?

Ever, etc.,

H. REMSEN WHITEHOUSE.

[Inclosure 3 in No. 179.—Translation.]

Mr. Mariscal to Mr. Whitehouse.

Unofficial.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 25, 1889.

DEAR MR. WHITEHOUSE: Referring to the memorandum you left me on the case of Captain Stilphen, I have the honor to advise you that in a dispatch of 20th instant the governor of Vera Cruz says the following:

"The honorable court of justice of the State advised the government in my charge of the following:

"In answer to your note of yesterday's date, in which you inclose the telegram from the office of foreign affairs, referring to the case of Captain Stilphen, in Minatitlan, I have the honor to state that the necessary instructions have been given, in order that the cause referred to may be concluded as soon as possible."

"On this account the judge of that county telegraphed the following: 'Captain Stilphen has been consigned to this jury by the government, according to notification to office of foreign affairs, as supposed to have aided the escape of Mr. Patton in his ship, notwithstanding the claims of the authority, the latter being supposed to have wounded seriously Manuel Alor in Chinameca.'

"Stilphen has not been in prison. He is under bail from F. M. Carpenter, who will answer for him in case responsibility is proved. All of which I communicate to you for what might occur.

"I have the [honor] to advise you of this in answer to your telegram of the 17th inst."

I am, etc.,

IGNACIO MARISCAL.

[Inclosure 4 in No. 179.—Translation.]

Mr. Mariscal to Mr. Whitehouse.

Unofficial.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 25, 1889.

DEAR MR. WHITEHOUSE: I have the honor to answer your note of the 22d instant, relative to the suspension of loading of the schooner *Robert Ruff* by the authorities at Minatitlan, advising you that I have requested the secretary of treasury to try and have the trial over as soon as possible, justly and without causing any unnecessary delays.

I remain, etc.,

IGNO. MARISCAL.

Mr. Ryan to Mr. Blaine.

No. 184.]

LEGATION OF THE UNITED STATES,
Mexico, December 7, 1889. (Received December 18.)

SIR: Upon receipt of your instruction No. 136 of the 27th ultimo, touching the arrest of Captain Stilphen, of the American schooner *Robert Ruff*, I ascertained, by wire, from our consul at Vera Cruz that Captain Stilphen was yet under bond at Minatitlan.

I thereupon addressed a communication to Mr. Mariscal, copy whereof I have the honor to attach, bringing to his notice the views stated in your said instruction, and expressed the belief that the Mexican Government will promptly take appropriate action, if not already taken, without delay, in accordance therewith.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 184.]

*Mr. Ryan to Mr. Mariscal.*LEGATION OF THE UNITED STATES,
Mexico, December 7, 1889.

SIR: Referring to Your Excellency's unofficial communication of the 25th ultimo to Mr. Whitehouse touching the arrest of Captain Stilphen, of the American schooner *Robert Ruff*, I beg to state that I have this day received from my Government specific instructions to bring to Your Excellency's notice the views hereinafter stated, not doubting that the Mexican Government will probably take appropriate action, if not already taken, without delay, in accordance therewith.

It appears that the ground on which Captain Stilphen had been arrested was that on a previous voyage from Coatzacoalcos he assisted an American citizen named Patton, charged with assault and battery at that place, to escape. The facts in the case, as they were stated to my Government, were that Patton, who was accused of the offense alleged, but who had not been arrested, took passage on the schooner for the United States. When the schooner was about 9 miles from land on the high seas and outside the jurisdiction of Mexico, she was approached by a boat, on board of which were certain persons in citizens' clothes, one of whom, who spoke in Spanish, exhibited a piece of paper, and apparently solicited Patton's surrender. He did not, however, come on board of the schooner, and Captain Stilphen kept her on her course, paying no attention to the demand apparently made upon him. For this act he was upon his return to Coatzacoalcos arrested on the charge of aiding a criminal to escape.

My Government is of the opinion that, upon the facts stated, there is no ground for Captain Stilphen's detention, and that he should be set at liberty without delay, if that step has not been already taken. As my Government is informed, the *Robert Ruff* at the time the demand was made upon her master was clearly outside of the jurisdiction of the Mexican Government, and was an American vessel on the high seas, within the exclusive jurisdiction of the Government of the United States. She was not, therefore, in any respect subject to the criminal laws of Mexico, and her commander was not, and is not, answerable to those laws for acts then and there committed. For the same reason the demand upon him was unauthorized and illegal, and one which he would not have been justified in conceding.

Merchant vessels on the high seas being constructively considered, as for most purposes, a part of the territory of the nation to which they belong, they are not subject to the criminal laws and processes of another nation, and any attempt of the officers or citizens of the latter to execute and serve such laws and processes on board of them can only be regarded as an illegal proceeding, which their masters and crews are justified in not only disregarding, but also in resisting.

It gives me pleasure, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

No. 186.]

LEGATION OF THE UNITED STATES,
Mexico, December 11, 1889. (Received December 23.)

SIR: Referring you to my No. 184 of the 7th instant, I have the honor to inclose note (copy and translation) from Mr. Mariscal advising this legation that he had requested additional information in the case of Captain Stilphen of the schooner *Robert Ruff*.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 186.—Translation.]

Mr. Mariscal to Mr. Ryan.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, December 10, 1889.

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's note, dated the 7th instant, wherein you were pleased to state, with reference to my unofficial communication of the 25th ultimo to Mr. Whitehouse touching the arrest of Captain Stilphen, of the American schooner *Robert Ruff*, that, by reason of certain views which you clearly expressed to me, you did not doubt that the Mexican Government would conform to them and take appropriate action without delay, if not already taken.

As these views seemed based upon information already embodied in the memorandum of Mr. Whitehouse, and do not accord with the particulars of the case that are on file in this department, I have this day requested further information touching the data in my possession, and will duly have the satisfaction of communicating to Your Excellency the result of my inquiries.

It gratifies me to reiterate, etc.,

IGNO. MARISCAL.

Mr. Ryan to Mr. Blaine.

No. 211.]

LEGATION OF THE UNITED STATES,
Mexico, January 21, 1890. (Received January 30.)

SIR: For the information and files of the Department, I beg to transmit herewith copies of the latest correspondence of this legation bearing on the case of R. C. Work, imprisoned at Victoria, Tamaulipas, for the murder of Francisco Cruz.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 211.]

Mr. Ryan to Mr. King.

LEGATION OF THE UNITED STATES,
Mexico, August 13, 1889.

SIR: I am in receipt of a letter from Mr. R. C. Work, stating that he can get no lawyer to defend him in the pending trial before the second sala of the State supreme court. I understand in such cases the court assigns counsel to the prisoner. Please give the matter your attention.

I inclose Mr. Work's letter, also a communication from one Juan Cortina, Victoria, June 22 last, touching the proceedings in Work's case.

I am, etc.,

THOS. RYAN.

FOREIGN RELATIONS.

[Inclosure A in inclosure 1.]

Mr. Work to Mr. Ryan.

VICTORIA, August 3, 1889.

DEAR SIR: Permit me to submit to you the inclosed letter of Don Juan Cortina. I further state that I can get no one to defend me in the pending trial before the second sala. My witnesses volunteer to come forward to testify. Hope you will press this to a close. My family and self are suffering for the actual want of provisions to live on.

Hope you will excuse one in suffering. I am not an assassin, much less a murderer. What I had to do, could I have saved my own life by not doing so, I would have never taken the life of anyone.

Yours, etc.,

R. C. WORK.

[Inclosure B in inclosure 1.—Translation.]

Mr. Cortina to Mr. King.

JUNE 22, 1889.

DEAR SIR: I have the honor to call your attention to the signature attached to page 15 of the documents in the case against R. C. Work, as it is not the same that he employs in all his business transactions; for, in place of being written as I have it above, with all the requisite letters, it is written Wok; the same occurring in the marginal signature. This can be proven by Antonio Doral and Severa Parkhini, who saw it with me. And also it is not signed by his lawyer as are all the other papers.

I am, etc.,

JUAN CORTINA.

[Inclosure 2 in No. 211.]

*Mr. Ryan to Mr. King.*LEGATION OF THE UNITED STATES,
Mexico, August 15, 1889.

SIR: It has come to my notice that in the trial of Mr. R. C. Work it is alleged that two Vega boys will each swear that just preceding the killing of Francisco Cruz they heard him state that he intended to kill Work that day, and was waiting for him to come up the arroyo, and that the court refused to receive their evidence. Be kind enough to ascertain positively what truth there is in this statement.

Please return the inclosures I sent you in my letter of the 13th when you finish with them.

I am, etc.,

THOS. RYAN.

[Inclosure 3 in No. 211.]

Mr. King to Mr. Ryan.

No. 12.]

CONSULAR AGENCY OF THE UNITED STATES,
Victoria, August 23, 1889.

SIR: I have the honor to inform you that Mr. R. C. Work has secured the services of a Mexican to defend him. This man is not a regularly qualified lawyer, but Work is satisfied with him and thinks him capable of conducting the defense. The trial will probably take place in the course of 1 or 2 weeks.

With regard to the Vegas, I beg to report that Sisto Vega, in the presence of witnesses, stated that he, Sisto Vega, could testify that Francisco Cruz, 1 or 2 weeks before the shooting, used threatening language against Work, declaring that he was Work's enemy.

Patricio Vega, Sisto Vega's brother, met Work coming from Linares just before the shooting and said to Work: "Pascho Cruz is drunk and with two others is ready to kill you. I am going to accompany you that nothing may happen."

When the case was tried at San Carlos, in some way these men were prevented giving their evidence. The Vegas are middle-aged men. Patricio Vega made the above statement voluntarily before Don Juan Cortina and Antonio Maydon. Work is still permitted to remain with his family in his quarters, on medical certificate.

I understand that a certified copy of the proceedings in this case has been sent to Mexico, which you may be able to see.

I have, etc.,

J. H. T. KING.

[Inclosure 4 in No. 211.]

Mr. Ryan to Mr. King.

LEGATION OF THE UNITED STATES,
Mexico, December 18, 1889.

SIR: Kindly advise me by earliest mail of the present status of the case of R. C. Work, and what action, if any, is desired to secure a final trial, so as to promote justice.

I wrote on August 15 last asking for information regarding the alleged suppression by the court of the testimony of the two Vega boys, but have no reply from you. Be kind enough to inform me thereon; also what each will swear to.

I am, etc.,

THOS. RYAN.

[Inclosure 5 in No. 211.]

Mr. Sutton to Mr. Ryan.

No. 7.]

CONSULATE-GENERAL OF THE UNITED STATES,
Nuevo Laredo, December 26, 1889.

SIR: I inclose herewith copy of a letter from our agent at Victoria in regard to the Work case.

Mrs. Work has lately had a letter published in the Texas papers, complaining very bitterly as to the alleged wrongs to which her husband and his family have been subjected. For my part, I have watched the case from the very first, and so far I have seen no violation of Mexican law or uncommon delays in the course of the trial. I think you will find by reading the records of your office that General Bragg, when he presented Work's complaint (made under oath to Agent King) to Mr. Mariscal, was shown another statement also made by Work and in court, which was so at variance with the other as to the throw the case out of court.

I am, etc.,

WARNER P. SUTTON.

[Inclosure.]

Mr. King to Mr. Sutton.

No. 4.]

CONSULAR AGENCY OF THE UNITED STATES,
Victoria, December 20, 1890.

SIR: In reply to yours of the 12th instant, I have the honor to inform you that Mr. R. C. Work was born in 1835 at Kingston, Roane County, East Tennessee. He states that he never has taken any steps to become a Mexican citizen and claims to be an American citizen, i. e., United States citizen, at this time. Mr. Work has not been in jail since May last; he is out on medical certificate, living with his family. Sentence has been twice pronounced upon him; first, in February last, at San Carlos, by the judge there, passing sentence of 3 years and 4 months. Then the case was laid before the supreme court of this State, and the magistrate sentenced Work to 4 years and some days imprisonment. From this Work appealed, and his case is now before the second sala of the supreme court; it is probable the final decision will very soon be given.

I have done everything that possibly could be done in this matter, and at present we can only await the final decision.

Mrs. Work has done harm to herself and husband by writing letters and caused a bad feeling, which, I believe, did not previously exist. She is very well aware that I am always prepared to forward any letters she desires through the proper official channels. The letter I gave Mr. Work, and which I am annoyed to see quoted in the Associated Press dispatches, was given for a different purpose.

I have, etc.,

J. H. T. KING.

[Inclosure 6 in No. 211.]

Mr. King to Mr. Ryan.

No. 18.]

CONSULAR AGENCY OF THE UNITED STATES,
Victoria, December 27, 1889.

SIR: In reply to your communication of the 18th instant, I have the honor to inform you that the final decision in the case of R. C. Work has not yet been given. This last delay has been caused by the absence of the magistrate before whom the case is being tried. I believe the magistrate is daily expected, and I do not think Work will have long to wait for the sentence. In the meantime R. C. Work is permitted to live with his family in a private house.

Regarding the testimony of the Vegas, I venture to refer you to my letter No. 12, dated August 23, 1889, in which I state:

"I beg to report that Sisto Vega, in the presence of witnesses, stated that he, S. Vega, could testify that Francisco Cruz (i.e., the man who was killed), 1 or 2 weeks before the shooting, used threatening language against Work, declaring that he was Work's enemy.

"Patricio Vega, S. Vega's brother, met Work coming from Linares, just before the shooting, and makes the following statement: 'I said to Work, Pascho Cruz is drunk and with two others is ready to kill you. I am going to accompany you, that nothing may happen. Work, however, did not believe there was any danger and declined my assistance. A short distance off three men came out and I heard two shots.'

"The Vegas are middle-aged men. Patricio Vega made the above statement voluntarily before Don Juan Cortina and Antonio Maydon."

Don Juan Cortina is my authority for all the above information.

I have, etc.,

J. H. T. KING.

[Inclosure 7 in No. 211.]

Mr. Ryan to Mr. King.

LEGATION OF THE UNITED STATES,
Mexico, January 4, 1890.

SIR: I am just in receipt of yours No. 18 of 27th ultimo, reporting that the magistrate may soon be expected to sentence R. C. Work.

Please aid Work in securing the testimony of Sisto and Patricio Vega, if not already given in the trial proceedings.

Yours, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

No. 215.]

LEGATION OF THE UNITED STATES,
Mexico, January 22, 1890. (Received January 30.)

SIR: In connection with my No. 211 of yesterday, I beg to transmit copy of a letter of 14th instant from J. H. T. King, United States consular agent at Victoria, Tamaulipas, relative to the case of R. C. Work.

Mr. King therein states that the judge informed him on the 13th instant that the case of Mr. Work was closed, and sentence would be given in a few days. Mr. King adds that Mr. Work was not able to get the evidence of Sisto and Patricio Vega; indeed, that he was too poor to

secure a good lawyer; also that the former sentence will in all probability be sustained. He concludes by saying that "R. C. Work, or his wife, or others through them, have resorted to the public press, thus turning what sympathy they had here (Victoria) against them."

Should the decision of this court be adverse to Mr. Work, I shall make application for a copy of the proceedings and the testimony in the case.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 215.]

Mr. King to Mr. Ryan.

No. 19.]

CONSULAR AGENCY OF THE UNITED STATES,
Victoria, January 14, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of the 4th instant.

The magistrate informed me yesterday that the case of R. C. Work is closed, and that he will be sentenced in a few days.

The magistrate also requested me to state to you that a copy of the record of Work's trial was forwarded to the secretary of state, in the city of Mexico, long ago, and that doubtless you could examine it.

Work tells me that he was not able to get the evidence of Sisto and Patricio Vega. The fact is, Work is entirely without means and has not been able to obtain the services of a good lawyer or anything else that he needed. I have done all in my power to aid him, even supplying him with funds, but he is obstinate and ungrateful to such a degree that I have lost interest.

R. C. Work has returned to prison to day. He is confined in the jailer's room. He has been living in a private house since June last, and, in my opinion, he has lately had many privileges granted to him, and much leniency has been shown.

In all probability the former sentences will be sustained, but I do not think Work will be long held in confinement.

R. C. Work, or his wife, or others through them, have resorted to the public press, thus turning what sympathy they had here against them.

I have, etc.,

J. H. T. KING.

Mr. Ryan to Mr. Blaine.

No. 238.]

LEGATION OF THE UNITED STATES,
Mexico, February 7, 1890. (Received February 17.)

SIR: For the information of the Department, I have the honor to forward herewith a communication from R. C. Work, imprisoned at Victoria, Tamaulipas, charged with the murder of Francisco Cruz, to Mr. J. H. T. King, our consular agent at that place, complaining that he has been in ill health for many months, and that recently, to wit, on the 14th ultimo, while still sick in his room, he was "subjected to the painful persecution of being packed through the street by an armed mob and thrown into prison," and declares that such is the state of his health that his "life is in great danger."

It would seem that the authorities had long permitted Mr. Work to remain at his home with his family, pending the criminal action against him, upon the assumption that he was in ill health, but finding him apparently recovered, directed him to return to the prison. The consular agent, Mr. King, in forwarding Mr. Work's letter, says:

I beg leave to inform you that R. C. Work was out hunting a few days before being imprisoned, and, as he refused to go to the jail, the authorities were compelled to convey him on a cot. It required several men to do this, and I suppose the men who

carried him constitute the armed men alluded to. However, it was in no sense an armed mob, and, to say the least, in my opinion, Work showed bad taste in not quietly walking to the jail, as all know here that for months he has been walking, riding, and hunting constantly—in fact, enjoying almost full liberty. Work has been out on medical certificate since June last, but as he did not seem to appreciate the many privileges granted him, and even published letters against the Mexican people here, I infer that the authorities justly concluded they had shown him too much consideration.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 233.]

Mr. King to Mr. Ryan.

CONSULAR AGENCY OF THE UNITED STATES,
Victoria, January 25, 1890.

SIR: I have the honor to forward the accompanying letter from R. C. Work. In doing so I beg leave to inform you that R. C. Work was out hunting a few days before being imprisoned, and, as he refused to go to jail, the authorities were compelled to convey him on a cot. It required several men to do this, and I suppose the men who carried him constitute the armed mob alluded to. However, it was in no sense an armed mob, and, to say the least, in my opinion, Work showed bad taste in not quietly walking to the jail, as all know here that for months he has been walking, riding, and hunting constantly—in fact, enjoying almost full liberty.

Work has been out on medical certificate since June last, but, as he did not seem to appreciate the many privileges granted him, and even published letters against the Mexican people here, I infer that the authorities justly concluded they had shown him too much consideration.

I have, etc.

J. H. KING.

[Inclosure.]

Mr. Work to Mr. King.

VICTORIA, January 22, 1890.

DEAR SIR: I beg to state to you that on the 14th instant, sick in my room, that I had been previously, under sick certificate allowed, according to article 63 of the penal code, and without cause more than a communication from the United States minister, I have been subjected to the painful persecution of being packed through the street by an armed mob and thrown into prison. You know well my condition of health—suffering with asthma and hemorrhoids of the anus. I insist that you inform Minister Ryan. I have been here since the 14th and confined to my bed. I here inclose you a petition submitted on the 20th. I can give any kind of a bond. If there was a hospital, I would make no complaint; but, as I am subject to serious attacks of asthma, my life is in great danger and without any attention.

Hoping that you will give this your attention,

I am, etc.,

R. C. WORK.

Mr. Ryan to Mr. Blaine.

No. 241.]

LEGATION OF THE UNITED STATES,
Mexico, February 10, 1890. (Received February 19.)

SIR: Referring to this legation's dispatch No. 186 of December 11, 1889, relative to the arrest last November of Capt. J. H. Stilphen, of the American schooner *Robert Ruff*, by the authorities of Minatitlan, Vera Cruz, I have the honor to inclose copies of notes received by me from United States Consul Joseph D. Hoff, of Vera Cruz, and from Capt. J. H. Stilphen.

I have addressed a note to Mr. Mariscal, copy whereof please find herewith, recalling his attention to this subject.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 241.]

*Mr. Hoff to Mr. Ryan.*CONSULATE OF THE UNITED STATES,
Vera Cruz, January 16, 1890.

SIR: Capt. J. H. Stilphen writes me that he is still under bond of \$200 about the affair of carrying that man from Coatzacoalcos and would like to have it settled, as he had to put the money up, as they might call the case up when he was away, and forfeit the bond, and keep the money, which I am satisfied is very unrighteous and unjust.

The following is a copy of his letter to me received to-day:

"I sail from New Orleans, Friday, 10 January, for Coatzacoalcos; will load at Minatitlan for New Orleans. Please write me as soon as convenient and see if you can't get them to settle the thing up this time whilst I am down there, for I expect to go north next voyage. They may call for me and I can not get there. I trust you will try and have it fixed up by the time I get away from there."

I hope something may be done with the case, as they certainly had no right to arrest him, for he was out of their jurisdiction when the man came on board 9 miles at sea. They might just as well arrest the landlord in Pensacola that entertained him, should he go to Mexico, as Captain Stilphen, who entertained him out of their jurisdiction.

Yours, etc.,

JOSEPH D. HOFF.

[Inclosure 2 in No. 241.]

Captain Stilphen to Mr. Ryan.

MINATITLAN, January 27, 1890.

DEAR SIR: Some 2 months ago I wrote to United States consul, Vera Cruz, and also cabled you that I had been arrested and under bond for \$200 on account of man Patton put on board of my vessel 9 miles at sea from bar of Coatzacoalcos. This man Patton was sent on board by Sir Thomas Tancred, of the railroad now building, and some 1 hour after this man was on board the port captain's boat came along and handed me a paper written in Spanish asking for Patton. I told them he was on board. They wanted him. I told them I could not give him up, for these men in boat were in no uniform to represent any authority. I did not refuse them coming on board for him. And they went away, and on my arrival back I was arrested. I gave bonds. This man I never knew before, and company put him on board, and am I to be fined for this act when I have done nothing more than many others would have done?

Will you please let me know what can be done in this case? I want to get clear of this bond and have it settled. I shall sail for New Orleans in about 12 days?

Please answer and oblige.

I remain, etc.,

J. H. STILPHEN,
Master Schooner Robert Ruff.

[Inclosure 3 in No. 241.]

*Mr. Ryan to Mr. Mariscal.*LEGATION OF THE UNITED STATES,
Mexico, February 10, 1890.

SIR: I am in receipt of a communication from Capt. J. H. Stilphen, master of the American schooner *Robert Ruff*, dated Minatitlan, V. C., January 27 last, whom Your Excellency will remember was arrested last November by the authorities of Minatitlan, on charge of assisting the escape of one Patton, supposed to have assaulted Manuel Alor in Chinameca; said Captain Stilphen being afterwards admitted to bail and allowed to sail.

He has on his return voyage again reached Minatitlan; and he is anxious to have the case against him, if there be one, settled as soon as possible, and his bond canceled, as it embarrasses his movements.

In Your Excellency's esteemed note of December 10, 1889, you were gracious enough to promise this legation the result of inquiries you had kindly set on foot touching this case, and, in connection therewith, I earnestly trust that some definite report from the authorities of the State of Vera Cruz may soon reach Your Excellency.

Praying Your Excellency's attention anew to this matter, I take pleasure in reiterating the assurances of my highest esteem and regard for Your Excellency.

THOS. RYAN.

Mr. Blaine to Mr. Ryan.

No. 202.]

DEPARTMENT OF STATE,
Washington, February 18, 1890.

SIR: The Department has received your No. 238 of the 7th instant, in further reference to the case of R. O. Work, imprisoned at Victoria, Tamaulipas, for the alleged murder of Francisco Cruz. It appears from the copy of letters from Mr. Work and from our consular agent at Victoria, Mr. King, that under certain rules the prisoner has been allowed, on account of ill health, very considerable privileges, including that of remaining at home with his family; but that for reasons which seemed sufficient to the authorities he has recently been obliged to return to the jail.

The statement of Mr. Work and of the consular agent conflict somewhat; and if a disinterested medical statement of the physical condition of Mr. Work could be procured, it might assist the consideration of the case. If suffering from acute attacks of asthma, the paroxysmal and intermittent character of that complaint should be borne in mind in weighing Mr. King's statement that Mr. Work was out hunting a few days before his return to the jail.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Ryan.

No. 206.]

DEPARTMENT OF STATE,
Washington, February 20, 1890.

SIR: Your No. 241 of the 10th instant is received.

Approving the terms of your note of the same date to Mr. Mariscal in the case of Captain Stilphen, of the schooner *Robert Ruff*, who was arrested last November in Minatitlan, and is still embarrassed by the obligation of a bond of \$200, which he was then compelled to give.

I am, etc.,

JAMES G. BLAINE.

Mr. Ryan to Mr. Blaine.

No. 255.]

LEGATION OF THE UNITED STATES,
Mexico, March 5, 1890. (Received March 17.)

SIR: In connection with your No. 206 of February 20, 1890, in regard to the case of Capt. J. H. Stilphen, of the American schooner *Robert Ruff*, I beg to forward, for your consideration, notes from the foreign office, with translations, relative thereto; also copy of a communication from Mr. J. D. Hoff, our consul at Vera Cruz, stating that the case of Captain Stilphen had been removed to Vera Cruz, for reëxamination, to the district court.

You will observe that the Mexican Government insists that Captain Stilphen was within its jurisdiction (2½ miles from shore) when he aided the escape of Joseph Patton.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 255.—Translation.]

*Mr. Mariscal to Mr. Ryan.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 13, 1890.

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's note of the 10th instant, wherein you were pleased to communicate to me the desire of Capt. J. H. Stilphen, of the schooner *Robert Ruff*, that the proceedings conducted against him for having assisted in the escape from Coatzacoalcas of one Patton may be speedily terminated, and that the bond he gave in order to be allowed to sail may be canceled.

In the said note Your Excellency refers to the note of December 10, wherein I promised to communicate to you the result of investigations set on foot touching this matter.

In reply, I would state to Your Excellency that a few days since I received a communication from the governor of the State of Vera Cruz covering a report from the superior tribunal of that State, in which it is stated that the judge of first instance at Minatitlan having been found incompetent to hear the proceedings relative to the wound received by Manuel Alor, and which bears on the matter of the responsibility of Captain Stilphen, the case was referred to the second federal court of the district of Vera Cruz for a hearing and action.

As soon as the result of the said proceedings is communicated to this department I shall have the satisfaction of transmitting them to Your Excellency.

I renew, etc.,

IGNO. MARISCAL.

[Inclosure 2 in No. 255.]

*Mr. Hoff to Mr. Ryan.*CONSULATE OF THE UNITED STATES,
Vera Cruz, February 15, 1890.

SIR: I received yours of 8th, and at the same time a telegram from J. H. Stilphen saying his case had been removed to Vera Cruz for reëxamination, to the district court, and I accordingly went to the court and saw the clerk, and he said it was there and under examination, but when it would be decided it was out of his power to tell.

The captain seems very impatient, as he has his \$200 bail up and he wants it back in his pocket again. He says the court at Minatitlan say they find nothing against him. Captain has sailed from Minatitlan for New Orleans at present.

Yours truly,

JOSEPH D. HOFF.

[Inclosure 3 in No. 255.—Translation.]

*Mr. Mariscal to Mr. Ryan.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 27, 1890.

MR. MINISTER: In my note dated the 10th of December last I had the honor to inform Your Excellency that the ideas set forth in your legation's note of the 7th of the same month seemed based upon information which did not accord with the particulars of the case on file in this department, as touching the position of the American schooner *Robert Ruff*, when, on starting from Coatzacoalcas in August of last year, it was overtaken by the gig of the captain of the port with a judicial warrant for the arrest of Joseph Patton, a fugitive from justice.

The truth of the occurrences having been investigated, as I promised Your Excellency in my said note, it transpires that the said schooner was 2½ marine miles distant from the coast when the captain's yawl overtook it. For, while it was true that upon leaving the port the schooner had gone further out to sea, it afterwards tacked or maneuvered in order to reach the boat carrying the fugitive, and this movement brought it further inland.

I embrace the opportunity to renew, etc.

IGNO. MARISCAL.

Mr. Ryan to Mr. Blaine.

No. 264.]

LEGATION OF THE UNITED STATES,
Mexico, March 15, 1890. (Received March 28.)

SIR: Referring to instruction No. 103 of October 9, 1889, I have the honor to advise the Department that, pursuant to arrangement, the Mexican minister of foreign affairs and myself had a conference on Thursday, the 13th ultimo, with the object of adjusting the damages resulting from an incursion of Mexican soldiers into Eagle Pass, Tex., on the 4th of March, 1888, but found it impracticable to reach an agreement touching the damages sustained by Shadrack White, United States deputy sheriff, Mr. Mariscal professing to have satisfactory proof that the claimant's wounds did not result in any permanent incapacity whatever, whereas the medical and other testimony presented by Mr. White established the existence of permanent disability of one hand from a gunshot wound received on that occasion while in the performance of his official duty. It was agreed, subject to approval by the State Department, that each Government should select a competent surgeon of high character to examine and report upon the character and extent of the claimant's injuries, and, failing to agree, the two surgeons so chosen to select another competent surgeon to make such examination and report; the report of the two originally designated by the two Governments, should they agree, to be conclusive as to the character and extent of such injuries; otherwise the report of the surgeon chosen by them to be of like effect.

I beg to advise that, through Mr. E. O. Feché, our consul at Piedras Negras, I engaged, without compensation, Dr. Paul Clendenin, assistant surgeon, U. S. Army, Fort Duncan, Eagle Pass, Tex., to act on the part of the United States, to whom I have addressed instructions in accordance with the agreement mentioned.

I am, etc.,

THOS. RYAN.

Mr. Blaine to Mr. Ryan.

No. 224.]

DEPARTMENT OF STATE,
Washington, March 24, 1890.

SIR: Your dispatch No. 255 of the 5th instant has been received. It relates to the case of J. H. Stilphen, master of the American schooner *Robert Ruff*, heretofore the subject of correspondence, against whom proceedings are pending in the Mexican courts on the charge of aiding the escape from Coatzacoalcos of a fugitive from justice in August last. You now transmit a note addressed to you by Señor Mariscal and a report from the consul at Vera Cruz, both stating that Captain Stilphen's case had been removed to the district court at that place for reexamination.

I note your reference to Señor Mariscal's controversion, in his communication to you of February 27, of the allegations heretofore made in Captain Stilphen's behalf, and his statement that upon investigation it is found that the *Robert Ruff* was within Mexican jurisdiction, being 2½ nautical miles from the coast, when the captain's yawl overtook the schooner and put the fugitive on board.

It does not appear that the Mexican Government controverts the law of the case as laid down by this Government upon the statements sub-

mitted to us. Before sending you further instructions in the premises, the Department will await the development of the disputed questions of fact.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Ryan.

No. 235.]

DEPARTMENT OF STATE,
Washington, April 23, 1890.

SIR: Adverting to Department's instructions No. 244 of January 19, 1888, No. 30 of July 12, 1889, and to your No. 48 of July 22, 1889, all in relation to the claim of Howard O. Walker, a citizen of the United States at Minatitlan, on account of insults and injuries undergone by him at the hands of Mexican authorities, I inclose copy of a letter of the 18th instant from Mr. M. F. Morris, of this city, in relation to the subject. I have to request at the same time that you again invite the attention of the Mexican Government to the case, determination of which appears to have been long deferred. Ascertain its present status and acquaint the Department with such information as you may obtain.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 235.]

Mr. Morris to Mr. Blaine.

WASHINGTON, D. C., April 18, 1890. (Received April 19.)

SIR: In a letter of December 6, 1887, I presented to the Department of State the petition of Howard C. Walker, an American citizen sojourning in the Republic of Mexico, requesting the interposition of our Government on account of wrongs suffered by Mr. Walker at the hands of the Mexican authorities. Some correspondence ensued upon the subject, as will appear by the files of your Department. I was informed that our minister to Mexico, Mr. Bragg, had been directed to bring the matter to the attention of the Mexican Government, and that he had done so, and they had promised to give it due attention and investigation. I presume that promise is still good, and will continue to be made from time to time forever, according to the recognized methods of diplomacy. But Mr. Walker is as far off as ever from the reparation to which he is entitled.

Permit me to ask you to give the matter your consideration and to direct our minister to Mexico to bring it to a speedy settlement.

Very respectfully, etc.,

M. F. MORRIS.

Mr. Ryan to Mr. Blaine.

No. 290.]

LEGATION OF THE UNITED STATES,
Mexico, May 2, 1890. (Received May 12.)

SIR: Referring to your instruction No. 202 of February 18, 1890, relative to the case of Mr. R. C. Work, confined in Victoria, Tamaulipas, charged with the murder of Francisco Cruz, in February, 1888, allow me to submit, for the information of the Department, copies of the latest correspondence upon the subject had by this legation.

On the basis of a certificate from two physicians of Victoria, to wit, Gregorio Porchini and Pegedis B. Balboa, to the effect that the pris-

oner is suffering from bleeding piles, etc., I addressed a note to Mr. Mariscal, copy of which please find inclosed with the said correspondence, praying that Mr. Work "may be removed from the jail to some place where proper medical treatment may be secured for him."

Trusting that my action may meet your approval,

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 290.]

Mr. Work to Mr. Ryan.

MARCH 16, 1890.

SIR: You will pardon a sick man for complaining. As Dr. King is indisposed, I address you direct. The proceedings in my case hang. For 2 years and 3 months I have been demanding a conclusion of the case. Mrs. Work received a letter from you a month ago telling her that I should have a speedy and just trial.

The case stands now just as it did at that date. My information is that the case has been returned to you from Washington, and that the Department had refused to take further notice of the case. It is insinuated that my Southern birth was held as a reason. This can not be possible. My record as a Unionist and a Republican can not be doubted. I was under Gen. R. K. Byrd, of East Tennessee, for 3 years, until discharged for sickness. Byrd's brigade belonged to General Fannin's division of the Federal Army. I claim no favors from this. My case demands an investigation by a commission duly appointed to send for papers, to take testimony, and to send for parties. My signature has been forged to *interrogatorios contradictorios*; in reality not my signature, nor is it my scroll. I have not been permitted an interpreter, as demanded by me, and when I presented an interpreter he was rejected. I am now confined in a filthy prison, prevented medical aid, and contrary to article 63, Penal Code, *Los Presos enfermos se curarán precisamente en el establecimiento en que se hallen, sea de la clase que fuere ó en el hospital destinado á ese objeto y no en su casa. Pero se podrá permitir á los que lo soliciten que los asista un médico de su elección.* I here inclose you medical certificate signed by two physicians, at the same time tendering a good, valid bondsman. Ten days have passed, and now the judge has taken leave of absence for 20 days and left the city. The prison here has at this time 30 sick with measles and fever. It appears that some prejudice is the reason for not allowing me medical attention. I beg your immediate attention to this. It is impossible for me to stand the rigors of this prison life long.

Your most obedient servant,

R. C. WORK.

[Inclosure 2 in No. 290.]

Mr. Ryan to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, April 30, 1890.

SIR: I have the honor to inclose copy (with translation) of a medical certificate signed by Gregorio Porchini and Pegedis R. Balboa, physicians of Victoria, Tamaulipas, attesting that Mr. R. C. Work, now in jail at that place, charged with the murder of Francisco Cruz, is "suffering from bleeding piles, a disease which has afflicted him for a long time; that very frequently high inflammation sets in, and the flow of blood is excessive; that thereby he is caused great pain and suffering, and that, in such cases, and in his present surroundings, he runs a risk, as the disease is serious and needs prompt attention in its treatment."

This legation was informed from Victoria last January that "Mr. Work's case had been closed by the judge on the 13th (of that month), and that sentence would be given in a few days." This sentence, as Your Excellency is aware, is the sentence of the appellate court to which Mr. Work had carried his case.

On the 14th of January last Mr. Work was removed from his house to the jail, and has been there since awaiting sentence.

In view of his physical sufferings, as set forth in the medical certificate I have alluded to, which has necessarily been augmented by the mental strain consequent upon his state of arrest for the past 2 years and 2 months, I feel little hesitancy in appealing in his behalf to the high sense of justice and humanity which ever actuates Your Excellency; praying that your kind offices may be exerted to the end that Mr. Work may be removed from the jail to some place where proper medical treatment may be secured, especially in view of the closing sentences of the physicians' certificate: "In the place of his [Work's] confinement, such treatment is impossible, and therefore we [the physicians] are of opinion that he should be removed from the jail, so that he can be treated with some hope of securing his recovery."

I am honored in renewing herewith, etc.,

THOS. RYAN.

[Inclosure.—Translation.]

The medical certificate.

MARCH 10, 1890.

We, the undersigned medical surgeons, do hereby certify that, having examined Mr. Robert C. Work, confined in the jail of this city, we find him suffering from bleeding piles, a disease which has afflicted him for a long time; that very frequently high inflammation sets in, and the flow of blood is excessive; that thereby he is caused great pain and suffering; and that in such cases, and in his present surroundings, he runs a risk, as the disease is serious and needs prompt attention in its treatment; that in the place of his confinement such treatment is impossible; and therefore we are of opinion that he should be removed from the jail, so that he can be treated with some hope of securing his recovery.

At the request of the party in interest, and for the ends he may design, we extend this present in Victoria, Tamaulipas, on the 10th day of March, 1890.

GREGORIO PORCHINI.
PEGEDIS R. BALBOA.

Mr. Ryan to Mr. Blaine.

No. 297.]

LEGATION OF THE UNITED STATES,
Mexico, May 20, 1890. (Received May 28.)

SIR: Referring to my No. 264 of March 15, 1890, relative to the claim of Shadrack White for injuries sustained by him at the hands of Mexican soldiers who made an incursion into Eagle Pass, Tex., in March, 1888, I have the honor to advise the Department that, upon the receipt of the report of the surgeons designated to make examination of Mr. White's injuries, I addressed a note to Mr. Mariscal suggesting that, if agreeable to him, I would call at the foreign office on Monday, the 6th instant, to confer further with him upon the question of damages. At the time designated Mr. Mariscal was otherwise engaged, but on the following Thursday we held a conference upon the subject and came to an indefinite and conditional understanding to the effect that the Mexican Government should pay Mr. White \$7,000 in gold, subject, however, to a further conference, Mr. Mariscal desiring to confer with the President before a final determination of the subject. Thereupon I addressed a note to our consul at Piedras Negras, requesting him to confer with Mr. White and advise me by wire whether the claimant would be satisfied with that sum. And the Sunday following I received from Mr. Feché an affirmative reply by wire, followed by a letter from him confirming the same, and stating, among other things:

I shall rejoice when this claim shall have been paid and we can make it public, for the actual money payment of a frontier claim by Mexico will have an immense and most beneficial effect on the ignorant frontier class, and markedly upon the petty local authorities.

The next day, to wit, Monday, the 12th instant, I again called at the foreign office, and was informed by Mr. Mariscal that he was authorized by the President to pay the said sum of \$7,000 in gold, and it was then and there finally agreed between Mr. Mariscal and myself that the Mexican government should forthwith pay the said sum of \$7,000 in American money, and that such payment should be a full satisfaction of Mr. White's claim; and it was further understood that a draft on New York would be sent this legation as soon as the necessary clerical work could be performed, not exceeding 3 or 4 days.

I have this day received from the Mexican Government a note transmitting the draft referred to for \$7,000, gold, drawn by the Bank of London and Mexico, of this city, against the Bank of British North America, of New York, numbered 1859 and dated the 9th instant, payable to the order of Manuel E. Goytia, and by him indorsed payable to the order of Francisco Espinosa, treasurer of Mexico, and by him indorsed payable to the order of Manuel Azpiroz, subsecretary in charge of the department of foreign affairs, and by him indorsed payable to the order of myself, as envoy extraordinary and minister plenipotentiary of the United States of America in Mexico. I herewith transmit the same, indorsed by me payable to the order of James G. Blaine, Secretary of State of the United States. It was originally contemplated that the draft should, in the first instance, be made payable to Mr. White, but that not having been done, I have thought it advisable for prudential reasons to indorse it payable to the Secretary of State.

This day I acknowledged to the Mexican Government the receipt of this draft in full satisfaction of the claim of Mr. Shadrack White.

I am, etc.,

THOS. RYAN

[Inclosure 1 in No. 297.]

Mr. Fochét to Mr. Ryan.

CONSULATE OF THE UNITED STATES,
Piedras Negras, April 26, 1890.

SIR: I have the honor to inclose herewith the reports of the medical officers selected to examine and report upon the disabilities of Shadrack White, resulting from wounds received in endeavoring to arrest Mexican soldiers on March 3, 1888, who had invaded United States territory.

The reports are marked D and E, and memorandums of the meetings signed by the Mexican consul and myself marked F and G.

I also inclose originals of letters from the Mexican consul and a copy of my reply. This correspondence is marked A, B and C.

Mr. White forwards an affidavit; this he wishes to be made a part of his claim. This inclosure is marked H.

I desire to submit reasons why a first report from the two medical officers was not prepared. When the two separate reports (from which the first one was to have been evolved) were read and mutually translated, we found the reports practically the same save in one point, viz:

Dr. Clendenin, following modes of our Pension Bureau, rated the disability numerically. We failed to make the medical officer that represented the Mexican Government understand this mode of estimating a disability, and so we, Mr. Caseneuve and myself, decided to send on the two reports.

These reports very plainly establish a very permanent disability to the right hand; any person would estimate this disability at over one-half; this to a right hand is a very serious matter.

I beg to be informed if any more papers are needed in Mr. White's case.

I am, etc.,

EUGENE O. FUCHT.

[Inclosure A in inclosure 1.—Translation.]

Mr. Caseneuve to Mr. Fechét.

CONSULATE OF THE UNITED MEXICAN STATES,
Eagle Pass, Tex., April 14, 1890.

SIR: The minister of foreign affairs has directed me to select a physician who shall, in consultation with whomsoever you may be pleased to designate, investigate whether Mr. White (Shadrack) is permanently disabled in the right hand.

I therefore have appointed Dr. Cirlos (Daniel) a resident of Piedras Negras, to furnish the expert decision required.

If it should seem agreeable to you, I propose that said examination shall be had on the 17th instant, at 4 p. m. (Mexican time), in your office at Piedras Negras.

I renew, etc.,

F. G. CAZENEUVE.

[Inclosure B in inclosure 1.]

Mr. Fechét to Mr. Caseneuve.

CONSULATE OF THE UNITED STATES,
Piedras Negras, April 15, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of 14th instant, informing me that, by authority of instructions of the honorable minister of foreign affairs, Republic of Mexico, you have appointed Dr. Daniel Cirlos as medical officer to act in conjunction with the medical officer representing the United States, to determine the injuries sustained by Shadrack White, deputy sheriff, while endeavoring to arrest certain Mexican soldiers in March, 1888, who had invaded the territory of the United States.

Your suggestion that the meeting to examine Mr. White be at this consulate on Thursday, April 17, at 4 o'clock p. m., is accepted, provided this medical examination be not limited and restricted to determining "if the right hand is incapacitated."

My instructions are to have the two doctors determine "the injuries sustained and the resulting and present incapacity;" that is, any and all injuries sustained on the occasion above referred to. Should you inform me that your instructions limit the medical examination to Mr. White's right hand, the meeting of doctors need not take place until we shall have received instructions from our respective superiors. I wish to formally notify you that Dr. Paul Clendenin, assistant surgeon, U. S. Army, has been duly appointed to represent the United States in the examination of Mr. White.

Availing myself, etc.,

EUGENE O. FECHÉT.

[Inclosure C in inclosure 1.—Translation.]

Mr. Caseneuve to Mr. Fechét.

CONSULATE OF THE UNITED MEXICAN STATES,
Eagle Pass, April 18, 1890.

SIR: In reply to your esteemed favor of the 15th instant, it gratifies me hereby to confirm the message I telephoned to you to-day to the effect that the minister of foreign affairs in Mexico is willing that the medical examination shall be as full as is indicated in your note aforesaid: Therefore, I accept to-morrow, the 19th instant, and your office as the time and place for the surgical examination of White.

I have, etc.,

F. G. CAZENEUVE.

[Inclosure D in inclosure 1.]

Certificate of Dr. Paul Clendenin.

CONSULATE OF THE UNITED STATES,
Piedras Negras, April 19, 1890.

Examination of Shadrack White, citizen of the United States, and resident of Eagle Pass, Tex., conducted under instructions from Hon. Ignacio Mariscal, minister of foreign affairs, Mexico, and Hon. Thomas Ryan, envoy extraordinary and minister plenipotentiary to the Republic of Mexico.

Mr. White presented himself with the following history: On March 3, 1888, in execution of the duties of his office as deputy sheriff of Maverick County, Tex., while attempting to arrest 4 Mexican soldiers, he was shot by revolvers in their hands, being thereby wounded in the right hand, the bullet perforating the hand and dislocating the little finger at the metacarpo-phalangeal articulation, and in the left arm, from the effects of which wounds he was confined to his house and unable to perform his duties for the period of 4 months.

Upon examination Mr. White's present condition is found to be as follows: Scar of wound of entrance of bullet on radial aspect of middle finger, right hand, scar made by wound in passing the web between middle and ring fingers, and scar of wound of exit of bullet on ulnar aspect of right hand opposite the lower third of metacarpal bone of little finger. This wound involved the bones of the hand, and in the process of repair the extensor tendons were bound down, so that there is marked limitation of movement and impairment of strength in the hand. This consists of inability to flex the ring finger and little finger upon the palm and loss of tractile strength in these fingers. The middle finger is also involved, but not to so great an extent. The loss of prehensile power is such as to interfere with the use of the right hand in driving, using a rope, handling a revolver or other weapon, and precludes the use of tools or instruments of precision, and is, in my opinion, permanent.

The wound to the left arm presents no present impairment, and is noteworthy only because it was the last to heal, thereby retarding his recovery.

PAUL CLENDENIN,
Assistant Surgeon, U. S. Army.

[Inclosure E in inclosure 1.—Translation.]

Certificate of Dr. Daniel L. Cirlos.

CONSULTING OFFICE OF DR. DANIEL L. CIRLOS,
Ciudad Porfirio Diaz, April 22, 1890.

The undersigned, medical surgeon, hereby certifies: That the American, Shadrack White, bears scars of wounds apparently the result of bullets from some firearm of small caliber.

(1) On the front and back of the left forearm there is a scar as if burnt, some 12 centimetres in extent; apparently the skin had been abraded, and possibly an insignificant portion of the flesh.

(2) In the right hand a small scar in radial aspect of middle finger, on the lower inside surface; another scar on the outside of same finger and of same extent; a scar in the web between the middle and ring fingers; scar of wound at the metacarpo-phalangeal articulation; another on the surface (inside) opposite the third metacarpal bone of little finger; and still another in the lower portion of the fifth metacarpal bone at the adduct muscle of little finger; these scars ranging from the inside out and from front to back.

In present conditions the wound involves partial disability of the three fingers; the hand can not be used save with great difficulty; and the injury, in my opinion, will be permanent.

DANIEL L. CIRLOS.

[Inclosure F in inclosure 1.]

Memorandum of first meeting, April 19, 1890.

At a meeting held at the consulate of the United States at Piedras Negras, Mexico, on Saturday, April 19, 1890, under instructions from the Hon. Thomas Ryan, envoy extraordinary and minister plenipotentiary to the Republic of Mexico, and the Hon. Ignacio Mariscal, minister of foreign affairs, Republic of Mexico, there were present:

Eugene O. Fehét, consul of the United States at Piedras Negras, Mexico; F. G. Cazeneuve, consul of the Republic of Mexico at Eagle Pass, Tex.; Dr. Paul Clendenin, assistant surgeon, U. S. Army, medical officer on the part of the United States; Dr. Daniel Cirlos, of Ciudad Porfirio Diaz, medical officer on the part of the Mexican Government.

Before the above named came Shadrack White, American citizen, residing at Eagle Pass, Tex., and who, as deputy sheriff of Maverick County, State of Texas, on March 3, 1888, sustained injuries while endeavoring to arrest certain Mexican sol-

diers on United States territory. The said Shadrack White was carefully examined by the medical officers, Drs. Clendenin and Cirlos, to determine extent of injuries sustained by him as above stated and the amount of disability or incapacity resulting therefrom.

The said examination having been completed, it was mutually agreed that each medical officer shall prepare his written report of the conclusion reached by him, and that the two reports shall be presented on Tuesday, April 22, 1890, before a meeting of the same persons and at the same place.

EUGENE O. FECHÉT.
F. G. CAZENEUVE.

[Inclosure G in inclosure 1.]

Memorandum of second meeting.

PIEDRAS NEGRAS, MEXICO, April 22, 1890.

At the adjourned and final meeting there were present all the several persons named in the preceding memoranda save and except Shadrack White, who was not present.

The separate reports of Drs. Clendenin and Cirlos were then read and translated, and, having been found to be fundamentally the same, it was decided to forward the two separate reports and in the following manner: Duplicate originals of each report shall be prepared, that of Dr. Cirlos in Spanish and marked A; that of Dr. Clendenin in English and marked B; that one original of each report shall be forwarded by their respective consuls to Hon. Thomas Ryan and Hon. Ignacio Mariscal, and that finally this memoranda shall be prepared in duplicate, signed by both consuls, and forwarded with the reports of the medical officers.

EUGENE O. FECHÉT.
F. G. CAZENEUVE.

[Inclosure H in inclosure 1.]

Affidavit of Shadrack White, April 24, 1890.

Shadrack White, a citizen of the United States and a resident of Eagle Pass, Tex., being duly sworn according to law, deposes and says that in consequence of wounds in both hands received on March 3, 1888, while in the discharge of his duty as deputy sheriff of Maverick County, State of Texas, endeavoring to arrest certain Mexican soldiers who unlawfully invaded United States territory, he was unable to do duty as deputy sheriff, and in consequence lost his position, which was worth \$125 per month; that he was unable to do anything, or perform any kind of labor, or even serve himself for over 4 months, as he was during this period deprived of the use of both of his hands, and was therefore obliged to hire a nurse at \$25 per month; that he has actually paid out to his attending surgeon \$150, and for medicines, bandages, etc., \$25; that he has sustained an actual money loss as follows:

4 months' salary as deputy sheriff, at \$125 per month	\$500
4 months' wages paid nurse, at \$25	100
Medical attendance	150
Medicine, etc	25

Or a total of 775

That he believes and claims that this sum should be paid to him over and above any sum received for the personal disability he now suffers in consequence of his wounds.

SHADRACK WHITE.

CONSULATE OF THE UNITED STATES,
Piedras Negras, April 24, 1890.

Sworn and subscribed to before me at the consulate on the date above written.
Notarial No. 17.

EUGENE O. FECHÉT,
Consul.

[Inclosure 2 in No. 297.]

*Mr. Fechté to Mr. Ryan.*CONSULATE OF THE UNITED STATES,
Piedras Negras, May 11, 1890.

SIR: I have the honor to acknowledge receipt of your communication of May 8. I sent for Mr. White and he instructed me to send you a telegram as follows: "Yes, if settled promptly," and this I now beg to confirm. Mr. White is very poor, and greatly in need of money, and hence agrees to take less than he believes his due, to save delay, as \$7,000 now will be of real service to him, while he recognizes the attendant uncertainties and delays should he stand out for a larger sum.

Mr. White earnestly and most gratefully recognizes your great services, and desires me to assure you of his deep appreciation of all you are doing for him.

I shall rejoice when this claim shall have been paid and we can make it public, for the actual money payment of a frontier claim by Mexico will have an immense and most beneficial effect on the ignorant frontier class, and markedly upon the petty local authorities.

At request of Mr. White, I request you to inform him through me when you think he may reasonably expect payment.

This request comes from the natural anxiety of a poor man in great need of his money.

I am, etc.,

EUGENE O. FECHTÉ.

[Inclosure 3 in No. 297.—Translation.]

*Mr. Aspiros to Mr. Ryan.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, May 20, 1890.

MR. MINISTER: The President of the Republic having approved the arrangement entered into between Your Excellency and Señor Lic. Don Ignacio Mariscal, secretary of foreign affairs, relative to the indemnification of Deputy Sheriff Shadrack White with \$7,000, in United States gold coin, for the injuries sustained by him through the wound he received during the unfortunate incident of March 3, 1888, at Eagle Pass, I have the honor to transmit to Your Excellency a draft for the amount aforesaid, drawn by the Bank of London and Mexico against the Bank of British North America, of New York, and by me indorsed to Your Excellency.

I pray that Your Excellency may be pleased to acknowledge receipt of said draft; and I embrace this occasion, etc.,

M. AZPIROS.

[Inclosure 4 in No. 297.]

*Mr. Ryan to Mr. Aspiros.*LEGATION OF THE UNITED STATES,
Mexico, May 20, 1890.

SIR: I have the honor to acknowledge the receipt of Your Excellency's communication of this date, inclosing draft No. 1859 of yesterday's date, drawn by the Bank of London and Mexico against the Bank of British North America, and indorsed payable to myself by Your Excellency, in full satisfaction of the claim of Shadrack White, an American citizen of Eagle Pass, Tex., for injuries sustained by him while acting as deputy sheriff, at the hands of Mexican soldiers who made an incursion into that place in March, 1888.

I have the honor to advise Your Excellency that this adjustment of Mr. White's claim is fully approved by him and by my Government.

Permit me to express to Your Excellency my Government's cordial appreciation of the honorable and friendly disposition of the Mexican Government relative to this unfortunate Eagle Pass affair from the beginning, and personally to thank your department for the kindly consideration and uniform courtesy always generously accorded me in all my official relations with it.

I have, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

No. 298.]

LEGATION OF THE UNITED STATES,
Mexico, May 21, 1890. (Received May 31.)

SIR: Referring to Department's instruction No. 235, dated April 23, 1890, relative to the claim of Howard C. Walker for injuries and ill treatment received by him at the hands of the Mexican authorities during his alleged wrongful imprisonment, covering a period of 4 years (1883-'87), at Minatitlan, I have the honor to advise the Department that, pursuant thereto, I addressed a note to the foreign office, dated the 15th instant, drawing anew the notice of the Mexican Government to the cases and requesting a reply without any further delay than may be necessary.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 298.]

Mr. Ryan to Mr. Aspiroz.

LEGATION OF THE UNITED STATES,
Mexico, May 15, 1890.

SIR: I have the honor to advise Your Excellency that I am directed by my Government, in specific instructions just received at this legation, to again draw the notice of Your Excellency's Government to the claim of Howard C. Walker, an American citizen, for injuries and cruel treatment received by him at the hands of the Mexican authorities at Minatitlan, State of Vera Cruz, during 4 years of alleged wrongful imprisonment at that place.

In this connection, I pray Your Excellency's attention to my note of July 22, 1889, to Mr. Mariscal, calling the attention of the foreign office to the facts submitted to the Mexican Government in a communication from this legation dated February 13, 1888, and begging to be promptly advised of its conclusions in the case.

It is agreeable to reflect that the cordial relations existing between the two Governments, the quick sense of justice and the uniform courtesy that always characterize Your Excellency's department, repel every possible inference of an unpleasant nature that otherwise might arise from the omission of Your Excellency's Government to make any response whatever to the presentation of the case made to it by my Government more than 2 years ago; nevertheless, the right of the United States Government to be advised without unnecessary delay of the views of the Mexican Government touching its duties and obligations relative to this claim will, I doubt not, be cordially conceded by Your Excellency.

I therefore respectfully renew the request contained in my note of July 22, 1889, that Your Excellency communicate to this legation, at the earliest practicable moment, the conclusions of Your Excellency's Government touching the merits of this claim.

I take pleasure, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

No. 300.]

LEGATION OF THE UNITED STATES,
Mexico, May 21, 1890. (Received May 31.)

SIR: In sequence to my No. 290, dated the 2d instant, relative to the case of R. O. Work, an American citizen imprisoned upon a charge of murder at Victoria, Tamaulipas, I have the honor to forward additional correspondence touching the case.

By the note from Mr. J. H. T. King, our consular agent at Victoria, you will see that Mr. Work was on the 12th instant "sentenced * to labor on the public works for 4 years 5 months and 10 days, the sentence to commence from January, 1889."

I am, etc.,

THOS. RYAN.

* While this volume was passing through the press the Consul General at Nuevo Laredo reported the pardon of Work.

[Inclosure 1 in No. 300.—Translation.]

*Mr. Mariscal to Mr. Ryan.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, May 3, 1890.

MR. MINISTER: I have the honor to reply to Your Excellency's note of the 30th of April, relative to the request of R. C. Work to be removed from the jail at Victoria to some place where he can receive proper medical treatment, and would advise you that the interested party can repair to the respective judge, in order that the latter, in view of the certificates of the medical experts, may decide upon the course to be adopted.

I reiterate, etc.,

IGNO. MARISCAL.

[Inclosure 2 in No. 300.]

*Mr. Ryan to Mr. King.*LEGATION OF THE UNITED STATES,
Mexico, May 8, 1890.

SIR: After receipt of a note of the 16th of March last from Mr. R. C. Work, confined in jail at Victoria, I addressed a communication to Mr. Mariscal, minister of foreign affairs, forwarding the medical certificate sent to this legation under cover of Mr. Work's note, and asked that Mr. Work be removed from the jail to some place for proper medical treatment. Mr. Mariscal has replied that the prisoner "can repair to the respective judge, in order that the latter, in view of the certificates of the medical experts, may decide upon the course to be adopted."

I inclose copies of all this correspondence, and beg that you will submit copies thereof to the judge for his consideration, with a suggestion that it is hoped that he may find it consistent with his sense of justice and duty to grant the prisoner's request for transfer from the prison to a more suitable place for medical treatment.

Kindly advise me of whatever action you may take.

I am, etc.,

THOS. RYAN.

[Inclosure 3 in No. 300.]

Mr. King to Mr. Ryan.

No. 23.]

CONSULAR AGENCY OF THE UNITED STATES,
Victoria, May 13, 1890.

SIR: I have the honor to report that R. C. Work was yesterday sentenced to labor on the public works for 4 years 5 months and 10 days, the sentence to commence from January, 1889.

At present R. C. Work is confined in the jailer's room.

I am, etc.,

J. H. T. KING.

Mr. Blaine to Mr. Ryan.

No. 255.]

DEPARTMENT OF STATE,
Washington, May 29, 1890.

SIR: I have to acknowledge, with warm appreciation of your effective efforts in the case of Shadrack White, the receipt of the draft for \$7,000 in favor of that gentleman sent with your No. 297 of the 20th instant, the same being the indemnity paid by Mexico in satisfaction of White's claim for damages, received in an attempt as deputy sheriff to arrest four Mexican soldiers who had made an incursion into Eagle Pass, Tex., in March, 1888.

I am, etc.,

JAMES G. BLAINE.

Mr. Ryan to Mr. Blaine.

No. 330.]

LEGATION OF THE UNITED STATES,
Mexico, June 25, 1890. (Received July 5.)

SIR: Referring to your No. 257 of the 2d instant, relative to the claim of Howard C. Walker for injuries inflicted (during 1883-'87) by the Mexican authorities at Minatitlan, Vera Cruz, I beg to inclose copy and translation of a note from Mr. Manuel Azpiroz, acting minister of foreign affairs, stating that, pursuant to a report rendered on April 18, 1887, by Señor Lic. Don Ignacio L. Vallarta, a legal adviser of the foreign office, the Mexican Government was not responsible for damages in the premises.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 330.—Translation.]

Mr. Azpiroz to Mr. Ryan.

DEPARTMENT OF FOREIGN AFFAIRS.

Mexico, June 12, 1890.

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's note, dated the 15th of May last, wherein, under special instructions from your Government, you are pleased to again draw the notice of the Government of Mexico to the claim of the American citizen Howard C. Walker for injuries and cruel treatment he alleges to have received at the hands of the authorities of Minatitlan during 4 years.

The claim in question is really incidental to the complaint of Captain Jobsen, of the Norwegian bark *Circassia*, which, according to the detailed and well-founded report of Señor Lic. Don Ignacio L. Vallarta of April 18, 1887, should be rejected.

That report shows clearly that the delay in the proceedings against Jobsen and Walker, accused of robbery by José R. Terán, as well as the consequent damages, were due to Walker and to the firm of Leetch, of which Walker was a clerk, and that therefore the Mexican Government was not responsible therefor.

Upon the presentation by your legation (in its notes dated March 13 and May 15, 1884) of the claim referred to by Your Excellency's note to which I have the honor to reply, this department stated on the 28th of May of that same year that the Government of Mexico had found it expedient to refer to the supreme court of justice of the State of Vera Cruz the circumstances complained of by Walker, in view of the irregularities which it is alleged were committed in this instance, solely with a view of complying with the courteous application of the Hon. Mr. Morgan, at that time minister of the United States; and that it was considered the more necessary to make that explanation inasmuch as it did not appear from the matriculation register that Howard C. Walker was a citizen of the United States, a circumstance which prevented this department from accepting the ulterior official intervention of the United States in the matter.

Notwithstanding the foregoing, in view of the courteous terms and friendly tone of Your Excellency's note I have made a detailed examination of the voluminous correspondence on file in this department relative to this case, which shows, as indicated by the reasons set forth in the report of Señor Lic. Vallarta, that the Mexican Government is not responsible for the injuries and damages Walker was alleged to have suffered; that the latter has unchallenged right to proceed against his calumniators, if any there be, but not against my Government; that as the claim of the captain of the bark *Circassia* was regarded as groundless, that of Walker was also so regarded, even had he complied with the law on matriculation then in force; that, as concerns the proceedings had against the claimant, there was no voluntary or unjust delay on the part of the Mexican authorities, but that the accused themselves, of whom Walker appears to have been an accomplice, and Walker himself, carried the blame (if there was any) of the delay and of its consequences; and that the proof that there was no laxity in the administration of justice lies in the fact that Walker was acquitted of the offense wherewith he was charged.

Trusting that the foregoing explanations will suffice for the Government of the United States, it gratifies me to reiterate, etc.,

M. AZPIROZ.

Mr. Ryan to Mr. Blaine.

No. 333.]

LEGATION OF THE UNITED STATES,
Mexico, June 27, 1890. (Received July 5.)

SIR: Drawing your notice to the Mexican law of February 1, 1856, which prohibits foreigners from "acquiring real estate in the frontier States or Territories, except 20 leagues from the line of the frontier," without previous permission of the Supreme Government, I have the honor to advise the Department that I was to-day informed verbally by Mr. Azpiroz, acting minister of foreign affairs, that the Mexican Government had determined to issue no authorizations or permits hereafter to foreigners to purchase real estate within the territorial limits stated until there shall have been a final adjustment of the boundary between the two Republics.

I am, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 24, 1890. (Received July 25.)

Mr. Ryan reports that he is authorized, in confidence and unofficially, by Mr. Azpiroz to state that Mexico will preserve a rigid neutrality with regard to the war now pending between Salvador and Guatemala, even though other States of Central America should involve themselves. However, she will use her friendly offices to establish peace on the basis of territorial integrity and the independence of the nations involved in the war.

Mr. Ryan to Mr. Blaine.

No. 350.]

LEGATION OF THE UNITED STATES,
Mexico, July 24, 1890. (Received August 4.)

SIR: On the 18th instant the secretary of the Guatemalan legation at this capital informed me that a cipher telegram from Mr. Mizner, United States minister in Central America, for the State Department at Washington had been received at his legation from the minister of foreign affairs at Guatemala, with instructions to repeat it to you. Two days after (the 20th) I received your cablegram of 19th instant, to wit: "If Mizner not there repeat to-day's telegram instantly to him." Not receiving such telegram, I sent Mr. Butler to the Guatemalan legation that morning to ascertain whether it had reached Mr. Diéguez, the Guatemalan minister.

Mr. Diéguez said that no telegram from Washington had' been received by him, but he kindly allowed a copy to be taken of the cablegram of the 15th instant from Mr. Mizner to yourself, above referred to, which I have placed in the files of this legation and also herewith inclose.

During the afternoon of the same day (the 20th) I received your cablegram of 19th instant to Mr. Mizner and promptly repeated it to him to

Guatemala over the line of the Central and South American Telegraph Company, keeping a copy thereof on file. Next morning I wired you:

Department telegram to Mizner received here yesterday and repeated to him at Guatemala.

But yesterday I ascertained that the cable company had not forwarded your message just referred to, and at once I sent it to Guatemala over the Mexican Federal Telegraph Company's wire via Neuton, and cabled you thus:

Cable company refusing to repeat Department's telegram to Mizner without prepayment, of which refusal I was uninformed until this morning, it was not sent until to-day.

A notice had been set up in the cable company's office here, stating that all telegrams over their wires to Guatemala were subject to censorship in San Salvador; but the Mexican Telegraph Company assured me that their messages were not so subjected and entered directly into Guatemala.

I am, etc.,

THOS. RYAN.

Mr. Wharton to Mr. Ryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1890.

Mr. Ryan is instructed to report to the Department all he knows and is able to find out concerning the trouble between the two Republics of Salvador and Guatemala. As the instructions of the Department to Mr. Mizner fail to reach him, he is requested to report if they have been intercepted, and if so, how.

Mr. Adee to Mr. Ryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 27, 1890.

Mr. Ryan is instructed, with the aid of Mr. Mizner, to make inquiries as to the cause and the responsibility of the stopping of communication between Washington and Central America.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 27, 1890.

Mr. Ryan reports that he immediately forwarded to Guatemala the Department's telegram of the 26th. Salvadorian censorship undoubtedly held at Libertad the telegrams sent by the Department directly to Mr. Mizner. Guatemala asserts that she was forced into war by territo-

rial invasion. The statement is made by the special agent in Mexico of the Ezeta government that Ezeta was asked to yield his pretensions to the presidency to Alvarez by the President of Guatemala, who emphasized it by sending the flower of his army to the border under the command of Alvarez with instructions to march into Salvador should Ezeta decline. This is proven by dispatches taken from Alvarez. The Salvadorian army did not enter Guatemala until they had twice defeated Alvarez on Salvadorian territory. The probable cause of the war is that the government of Ezeta is based upon opposition to the Guatemalan scheme of federation. In regard to which of the powers precipitated the war, that the first two fights took place in Salvador, the logic of the issue, the ambition of the general commanding Guatemalan troops to be President of Salvador, are very suggestive. The special agent of the Ezeta government, Mr. Pou, had his attention called to the holding of telegrams between the United States and Mr. Mizner, and was informed that the United States would permit no censorship over its dispatches and instructions. Whereupon Mr. Pou promised to report the matter to his government and expressed the belief that favorable action would be taken, but that line is in danger of being interfered with by the presence of an army, and for some time to come it will be well to forward communications through this legation.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 27, 1890. (Received July 29.)

Mr. Ryan reports, in reply to instructions regarding inviolability of correspondence, that Salvador seems responsible, and that he has demanded of her special agent in Mexico that the rights of the United States be guaranteed.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 28, 1890. (Received July 29.)

Mr. Ryan reports that among the correspondence shown him by the Guatemalan minister to Mexico is a telegram of the 25th July, in relation to the seizure of the *Colima*, from which appears the following:

It was unsafe that Guatemala should allow those arms to be unshipped, as it was intended they should be used against her, and this can be understood in view of the circumstances following the unjustifiable attack upon us by the alleged government. Consequently and agreeably with the seventeenth article of the contract of the 23d February, 1886, between Guatemala and the steamship company, the Government, without delay, required the agent of the company to order that the arms should not be landed in any of the Salvadorian ports, and the agent concurred. This was known to the United States minister, who also knew that the agent recognized our rights. According to the seventeenth article, the company promises to refuse transportation of troops or munitions of war on any of its steamers from ports it may enter to ports adjoining Guatemala if there is sufficient reason to suspect that such articles might be intended for use against Guatemala or for a warlike purpose.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 29, 1890. (Received July 30.)

Mr. Ryan reports that in an interview the special agent of Salvador informed him that the Salvadorian troops had been victorious in every battle, and now hold position in Guatemala, but to avert further bloodshed and restore peace the friendly offices of the United States would be agreeable upon the basis of the integrity of the territory of Salvador.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 29, 1890. (Received July 30.)

Mr. Ryan reports that he has seen a telegram just received from Ezeta to his special agent in Mexico in relation to the suppression of telegrams, and which reads: "I have ordered telegrams of Mexican and American Governments to be passed, but lines in Guatemala are broken. A ship might be gotten by the American minister to transport his communications to San José."

Mr. Wharton to Mr. Ryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 29, 1890.

Mr. Ryan is informed that his telegram of the 24th was not deciphered until yesterday. Mr. Mizner had been telegraphed to on the 20th, instructing him to tender impartial good offices, but no reply has been received from him. Action upon Mexican proposition must be delayed until Mr. Mizner can be reached. Ask if Mexico is in telegraphic communication with her legation in Guatemala.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 29, 1890. (Received July 30.)

Mr. Ryan reports that communication by the wire of the Mexican Federal Telegraph Company is possible between Guatemala and Mexico but not by cable, the company's wires being broken. However, it is possible to send from Washington via Libertad, and then to Acajutla by an overland line; thence to San José by steamer, as a United States war vessel is stationed there, where it may be forwarded to Guatemala by an overland line.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, July 30, 1890. (Received July 31.)

Mr. Ryan reports that the Guatemalan minister to Mexico has always assured him that the Guatemalan Government in no way interferes with either official or other correspondence. Dispatches thence are regularly, and, as he claims, without censorship, received by the agent of the American Associated Press, though the Mexican minister for foreign affairs is unable to receive anything from the Mexican minister to Guatemala. The minister for Guatemala to Mexico has telegraphed, at Mr. Ryan's request, to the Guatemalan minister for foreign affairs for positive information, and inviolability will be demanded if no satisfactory reply is received.

Mr. Ryan to Mr. Blaine.

No. 353.]

LEGATION OF THE UNITED STATES,
Mexico, July 30, 1890. (Received August 8.)

SIR: Referring to the attitude Mexico proposed maintaining toward the pending war between Guatemala and Salvador, I have the honor to advise the Department that on the 25th I received a note from Mr. Aspiroz stating that—

- In order to inform you of the intentions of the President, I pray that you will take the trouble to come to this department to-morrow between 11 and 12 o'clock.

At the designated time I called upon Mr. Aspiroz, and was informed by him that, in the interview with the President, the latter had fully confirmed his statements to me in the interview referred to in my said dispatch of the 25th instant, and that the President would be pleased if the United States would join Mexico in offering friendly offices for the restoration of peace upon the basis of territorial integrity and independence of the nations respectively involved in the war; and, if for any reason the Government of the United States did not care to act in the matter jointly with Mexico, the President would be pleased if it would so act separately. I suggested the expediency of formulating the President's views upon the subject in a memorandum, and stated that upon receipt thereof I would instantly communicate the same to my Government. Soon after he sent me the memorandum, copy of which I inclose, with its translation. At the earliest practicable moment thereafter I wired the Department.

It will be observed that Mr. Aspiroz, in the memorandum, referring to our interview of the 24th instant, says that I, "having expressed the desire of the Government of the United States to be advised, etc." What I did say was that the relations Mexico proposed maintaining respecting the contest was a matter of some importance and interest to the people and Government of the United States.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 353.—Translation.]

*Memorandum.*FOREIGN OFFICE, *July 26, 1890.*

His Excellency the United States minister, in an interview day before yesterday with the subsecretary in charge of the department of foreign affairs, having expressed the desire of the Government of the United States to be advised of the action proposed to be taken by that of Mexico in regard to the question now being decided by force of arms between Guatemala and Salvador, the subsecretary informed His Excellency the minister, confidentially and unofficially, that Mexico would maintain a strict neutrality; but that her Government was disposed to exert friendly offices to restore peace in Central America on the basis of respect towards the autonomy and independence and the integrity of the territory of each of the Central American States.

At a conference had to-day between the same gentlemen the subsecretary of foreign affairs confirmed the foregoing, and prayed His Excellency the minister, if no objection prevails, to be pleased to ascertain and to communicate to him whether the Government of the United States would be disposed to agree to act with Mexico in the interposition of such good offices, under forms to be determined by the first-named Government, or whether it would prefer to have each Government act in that interest independently; and whether, in such event, the Government of Mexico may shape her action subject to agreement with the Government of the United States in reference thereto.

Mr. Ryan to Mr. Blaine.

No. 355.]

LEGATION OF THE UNITED STATES,
Mexico, July 30, 1890. (Received August 11.)

SIR: For the information of the Department, I have the honor herewith to transmit copies of telegrams, with translations thereof, relating to the pending war between Guatemala and San Salvador, received from the Guatemalan minister of foreign affairs by the Guatemalan minister at this capital, who handed them to me on the 27th instant.

I am etc.,

THOS. RYAN.

[Inclosure 1 in No. 355.—Translation.]*Señor Sobral to Señor Diéguez.*

[Telegram.]

GUATEMALA, *July 23, 1890.*MINISTER DIÉGUEZ, *Mexico:*

The so-called government of Salvador has declared war on Guatemala after having begun the same, invading our territory with fire and sword. My Government has been forced to accept the war, and the army is being actively mobilized to sustain with dignity the struggle; the foreign colonies, business interests, and the people en masse have hastened to offer their services for the defense of the country.

MARTINEZ SOBRAL.

[Inclosure 2 in No. 355.—Translation.]*Señor Sobral to Señor Diéguez.*

[Telegram.]

GUATEMALA, *July 25, 1890.*The MINISTER OF GUATEMALA, *Mexico:*

The war which has been forced upon us by the so-called government of Ezeta has been accepted, the causes of such acceptance being the following: (1) Invasion of our territory; (2) after occupation of our town of Atescatempa, the Salvadorians

burned the town and put to the sword women and children; (3) the existing government circulated incendiary publications against Guatemala, and armed exiles in order to subvert thereby public order in this Republic. The persons and properties of neutrals shall be duly respected. Let it be known that we have made extraordinary efforts to maintain peace. Nothing unusual has occurred to-day. The loss among the Salvadorians is immense. It is calculated that of the enemy 600 were wounded. The Order of the Red Cross has been most hurriedly organized in Salvador. Our army holds good positions and in number is daily on the increase.

MARTINEZ SOBRAL.

[Inclosure 3 in No. 355.—Translation.]

Señor Sobral to Señor Diéguez.

[Telegram.]

GUATEMALA, July 25, 1890.

The MINISTER OF GUATEMALA, *Mexico*:

There is great enthusiasm for the nation's defense. All classes of society spontaneously proffer aid for the maintenance of the honor of the country. The people comprising the foreign colony (1,000 in number) offer their moral and material support. One foreigner offered the President \$100,000. The merchants, the students, the artists, the representatives of all corporations, present themselves at the barracks to take up arms.

The enemy has left our soil, and it is to be hoped he will not again invade us, for his hardness may cost him very dear.

MARTINEZ SOBRAL.

Mr. Ryan to Mr. Blaine.

No. 357.]

LEGATION OF THE UNITED STATES,
Mexico, July 30, 1890. (Received August 11.)

SIR: I beg to advise the Department that on the 27th instant the Guatemalan minister furnished me copies of telegrams (see my No. 355 of even date) received by him from the Guatemalan minister of foreign affairs, among which was one dated the 25th instant, relative to the seizure of the Pacific Mail steamer *Colima*, copy and translation whereof are herewith transmitted. In regard thereto, I telegraphed you on the 28th instant.

I am, etc.,

THOS. RYAN.

[Inclosure 1, in No. 357.—Translation.]

Señor Sobral to Señor Diéguez.

[Telegram.]

GUATEMALA, July 25, 1890.

The MINISTER OF GUATEMALA, *Mexico*:

This Government was advised of a steamer running from San Francisco with a consignment of arms designed for the Republic of Salvador. Due to the actual circumstances consequent upon the unjustifiable attack made upon us by the boasted Government set up in that Republic, it can be understood that it was not expedient for Guatemala to have those arms landed, for they were designed to operate against Guatemala. In view thereof, and in accordance with article 17, of the contract made with this Government by the steamship company on the 23d of February, 1886, the Government immediately demanded of the agent the company, Señor Leverick, that the arms should not be landed in Salvadorian ports. The agent said we were right.

The American minister had knowledge of these occurrences, also that the agent of the company recognized our rights. The seventeenth article, which I have cited, states: "The company engages not to carry on board of its steamers troops or munitions of war from ports it may touch to ports lying adjacent to Guatemala, if reason should exist for the belief that such elements might be designed for use as against Guatemala or for the purpose of war or pillage."

I communicate to you the foregoing, in order that, being advised of the true facts in the matter, you can establish the justice of the premises that control our action.

MARTINEZ SOBRAL.

Mr. Ryan to Mr. Blaine.

No. 300.]

LEGATION OF THE UNITED STATES,
Mexico, July 30, 1890. (Received August 11.)

SIR: I have the honor to advise the Department that on the 29th instant Señor Geronimo Pou, special agent of Señor Carlos Ezeta, provisional president of Salvador, in an interview upon the subject of hostilities between Salvador and Guatemala, said that it would be agreeable to Salvador if the Government of the United States would interpose its friendly offices to stop further bloodshed and restore peace upon the basis of the autonomy, integrity of territory, and independence of that Republic, notwithstanding the fact that the Salvadorian army had defeated the Guatemalan troops in every engagement, numbering eleven battles and skirmishes, and was then in strong position upon Guatemalan territory 12 leagues from the border.

I assured him that I would communicate what he said to the Department of State at Washington, and thereupon I wired you.

I am, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

No. 361.]

LEGATION OF THE UNITED STATES,
Mexico, July 31, 1890. (Received August 12.)

SIR: I have the honor to acknowledge receipt of Department's telegrams, dated the 29th instant.

On the following morning I informed Mr. Azpiroz that my Government had advised me that definite action upon the proposition contained in his memorandum of the 26th instant must necessarily be delayed until communication with the American minister, which had been interrupted for several days, could be resumed.

On the same day I wired reply to the telegram referred to.

I am, etc.,

THOS. RYAN.

Mr. Wharton to Mr. Ryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 11, 1890.

Mr. Ryan is instructed to state to Mr. Azpiroz that the Government of the United States is desirous of offering its good offices, in conjunction with the Government of Mexico, to Guatemala and Salvador, to

bring about a peaceful determination of their difficulties. He was directed to inform the Mexican Government that Mr. Mizner had been instructed to use his good offices with both Governments to bring about the restoration of peace, and to strictly confine himself to that duty; to offer friendly and impartial advice, but without dictation. He was also instructed to say to Mr. Azpiroz that the Government of the United States would be pleased to coöperate with the Government Mexico, but that independent action is preferred to joint.

Mr. Wharton to Mr. Ryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 15, 1890.

Mr. Wharton telegraphs Mr. Ryan that, upon informing himself that the Mexican Government appreciates our position in the matter of the tender of friendly offices for the restoration of peace between Salvador and Guatemala, and that it is aware that our instructions to Mr. Mizner to tender the good offices of this Government were first sent to him on the 20th of July, before the offer of Mexico was known to us, he will, on behalf of the Department, telegraph Mr. Mizner that this Government is glad to welcome Mexico's friendly disposition to act in concurrence with us in tendering good offices for the restoration of peace between the two Central American States upon the basis of equal respect for the autonomous sovereignty of all the States concerned; that Mr. Mizner should confer with the Mexican minister in Guatemala that the efforts of both may tend to the common object so earnestly wished for by the Governments of both; that, while his instructions must not be taken as contemplative of joint action of the foreign ministers at Guatemala City, the good will of the diplomatic corps directed to the same end would be regarded as a valuable aid toward the settlement of the difficulties without dictation or interference with any of the rights of autonomous government in Central America.

Mr. Ryan to Mr. Blaine.

No. 387.

LEGATION OF THE UNITED STATES,
Mexico, August 19, 1890. (Received November 4.)

SIR: I have the honor to submit herewith, for the information of the Department, copies of correspondence relative to action by the United States and Mexican Governments for the peaceful solution of Central American affairs.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 387.]

Memorandum.

UNITED STATES LEGATION,
Mexico, August 12, 1890.

In an interview with Mr. Azpiroz, acting minister of foreign affairs of Mexico, this 12th day of August, 1890, Mr. Ryan, American minister, referring to the subject of the United States and Mexico offering friendly offices to Guatemala and Salvador for a pacific arrangement of their difficulties, stated that he had received instructions

to advise Mr. Azpiroz that the United States Government is desirous of offering its good offices concurrently with the Mexican Government to Guatemala and Salvador, to bring about a peaceful solution of their troubles, and to further state to His Excellency that Mr. Mizner has been instructed as follows: To use good offices with both governments for the restoration of peace; to confine himself strictly to that duty, friendly, urgent, and impartial advice, but without dictation.

Mr. Ryan further informed His Excellency Mr. Azpiroz, that he was also instructed to state that the United States Government shall be very glad to coöperate with the Mexican Government, and to be acquainted with the instructions given to its representatives in Guatemala and Salvador, and that concurrent independent action is deemed better than joint.

[Inclosure 2 in No. 387.—Translation.]

Mr. Azpiroz to Mr. Ryan.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, August 18, 1890.

Mr. MINISTER: As I had the honor to advise Your Excellency in our interview of the 16th instant, I to-day advised the President of the instructions which the Government of the United States had conveyed to its representative in Central America, in accordance with the copy Your Excellency was pleased to deliver to me; and I have the satisfaction to inform you that, in accordance with the decision of the President, instructions identical thereto are being transmitted to our chargé d'affaires in Guatemala.

It gratifies me, etc.,

M. AZPIROZ.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, August 22, 1890.

Mr. Ryan informs Mr. Blaine that the special agent of the Government of Ezeta, Mr. Pou, called at the legation and informed Mr. Ryan that he was just in receipt of instructions from his Government to communicate to Mr. Blaine, through Mr. Ryan, the desire of the Government of Salvador to have the United States propose to the Government of Guatemala that the difficulty be submitted to arbitration, in accordance with the provisions of articles of arbitration proposed by the International American Conference: Guatemala and Salvador each to designate a neutral power to represent her, the representatives of these two neutral powers to act as arbitrators; pending the negotiations the *status quo* to be preserved. The prompt action of the United States is requested by Mr. Pou.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, August 22, 1890. (Received August 25.)

Mr. Ryan reports to Mr. Blaine that the special agent of the Government of Ezeta, Mr. Pou, informs him that Ezeta rejects the conditions of peace proposed by Mr. Mizner, as they require his resignation in

favor of Dr. Ayala, whom he considers a traitor to his country. Ezeta would consent to any proposition of peace that would bring about a fair election by the people of Salvador, but will not agree to any dictation from Guatemala regarding the construction of a Salvadorian Government.

Mr. Wharton to Mr. Ryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 25, 1890.

Mr. Wharton acknowledges receipt of Mr. Ryan's telegram of the 22d instant and instructs him to telegraph Mr. Mizner that he should suggest to the Guatemalan Government the submission to arbitration of the existing differences in Central America, in accordance with the provisions of the arbitration articles proposed by the International Conference; Guatemala to choose a neutral power as her representative, and Salvador to name another neutral power as hers, the two to act as arbitrators, and the existing situation to be maintained during the deliberations.

Mr. Ryan is further instructed to telegraph Mr. Mizner that upon receipt of these instructions he should notify the legation at Mexico of the fact by telegraph, whence the advice must be immediately telegraphed to the Department at Washington.

Mr. Ryan to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, August 26, 1890.

Mr. Ryan reports to Mr. Blaine that he has communicated the instruction of the 25th to Mr. Mizner respecting concurrent action and has also given Mr. Azpiroz a copy of Mr. Blaine's instruction.

Mr. Ryan to Mr. Blaine.

No. 398.]

LEGATION OF THE UNITED STATES,
Mexico, August 30, 1890. (Received September 10.)

SIR: Herewith I beg to forward letter of Mr. Azpiroz relative to Central American affairs.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 398.—Translation.]

Mr. Azpiroz to Mr. Ryan.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, August 21, 1890.

MR. MINISTER: By telegrams from chargé d'affaires of Mexico in Central America I have ascertained that the minister of the United States in Guatemala has joined the diplomatic corps accredited to the Government to that Republic in suggesting a

peace proposition to Salvador, dictating conditions which touch the autonomy of this latter State, to wit: That the *status quo* prevailing prior to the 22d of June last be restored; that General Ezeta deliver over the power to the party designated therefor by the constitution, who shall limit himself to calling for election of a President within the period of 21 days, and that the aforesaid general shall remain in command of the armed forces.

As this method of action of Mr. Mizner seems to differ from the instructions which his Government communicated to him, and of which instructions Your Excellency left me a copy at our interview of the 16th of the current month, I pray you, if it be not deemed inexpedient, that you will be pleased to inform me whether the minister of the United States in Central America has received new instructions to act as it is alleged he has acted, or whether there is no foundation for the report received.

I reiterate, etc.,

M. AZPIROZ.

Mr. Blaine to Mr. Ryan.

No. 375.]

DEPARTMENT OF STATE,
Washington, October 22, 1890.

SIR: A concurrent resolution was approved by the Senate of the United States on May 2, 1890, and by the House of Representatives October 1, 1890, to the end of securing treaty stipulations for the prevention of the entry into this country of Chinese laborers from the adjacent countries, in the following words:

Resolved by the Senate (the House of Representatives concurring), That the President, if in his opinion not incompatible with the public interests, be requested to enter into negotiations with the Governments of Great Britain and Mexico with a view to securing treaty stipulations with those Governments for the prevention of the entry of Chinese laborers from the Dominion of Canada and Mexico into the United States contrary to the laws of the United States.

The Government of Mexico has failed to perceive the grave embarrassments attending the application of diverse legislation to Chinese persons entering the ports of two neighboring countries, while a long stretch of inland frontier between those countries remains unguarded, or can only be watched with difficulty in order to prevent the influx by land of such Chinese as may have entered the adjacent state, whether lawfully or unlawfully. In the case of Chinese surreptitiously entering the territory of one state, in violation of its laws, for the sole purpose of effecting transit across its jurisdiction and so gaining unlawful access to the neighboring state, the evil has lately reached such proportions as to suggest that a remedy is to be sought in the common interest of both countries.

I have, therefore, by direction of the President, to instruct you to sound the Government of Mexico as to its willingness to enter into negotiations to the end proposed in the concurrent resolution above quoted, and, should favorable disposition be manifested, you may ask a general expression of views as to the stipulations most likely to comport with the legislation of Mexico concerning the treatment of Chinese labor immigration, together with a special consideration of the expediency of so shaping the negotiations, by mutual understanding, as to insure a reasonably uniform application of preventive measures in the United States, Mexico, and Great Britain.

I am, etc.,

JAMES G. BLAINE.

Mr. Ryan to Mr. Blaine.

No. 471.]

LEGATION OF THE UNITED STATES,
Mexico, November 1, 1890. (Received November 13.)

SIR: Immediately upon the receipt of instructions No. 375, of October 22, 1890, relative to the concurrent resolution of the United States Congress of the 1st ultimo, looking to the negotiation of treaties with the Governments of Great Britain and Mexico for the prevention of the entry of Chinese laborers from Canada and Mexico into the United States, I called upon Mr. Mariscal, unofficially, and advised him of its contents, and requested him to consider the subject with a view to favorable action.

He called my attention to article XI of the Mexican constitution, which reads as follows:

ART. XI. Every man has a right to enter and to go out of the Republic, to travel through its territory and change his residence, without the necessity of any safeguard, passport, letter of safe-conduct, or other like requisite.

While Mr. Mariscal was reserved touching the effect of this provision of the constitution upon the proposed convention, he impressed me as being inclined not to regard it as an insuperable barrier.

He has promised to give the matter thorough consideration and to confer with me at an early day respecting it.

I am, etc.,

THOS. RYAN.

Mr. Blaine to Mr. Ryan.

No. 399.]

DEPARTMENT OF STATE,
Washington, November 19, 1890.

SIR: I have received your No. 471 of the 1st instant, in which you state that, on bringing the concurrent resolution of Congress of 1st ultimo—contemplating treaty arrangements for the prevention of the entry of Chinese laborers into this country from Mexico—to the attention of His Excellency Mr. Mariscal, he promised to give the subject consideration.

You remark that at the same time Mr. Mariscal called your attention to article XI of the constitution of Mexico, which reads:

ART. XI. Every man has a right to enter and to go out of the Republic, to travel through its territory, and change his residence without the necessity of any safeguard, passport, letter of safe-conduct, or other like requisite.

The article seems to guaranty exemption on the part of residents and travelers from taking passports, safe-conducts, or other like requisite, but does not appear to dispense with matriculation or to affect the sovereign attributes in dealing with questions of public security.

Without suggesting any interpretation, the view which Mexico may take of the proposition is awaited with interest.

I am, etc.,

JAMES G. BLAINE.

Mr. Ryan to Mr. Blaine.

No. 487.]

LEGATION OF THE UNITED STATES,
Mexico, November 26, 1890. (Received December 18.)

SIR: Referring to my No. 471 of the 1st instant, relative to the concurrent resolution of the United States Congress concerning the negotiation of treaties for the prevention of the entry of Chinese laborers from Canada and Mexico into the United States, I have the honor to advise the Department that at a conference on the subject with Mr. Mariscal on yesterday he informed me that, with a disposition on the part of the Mexican Government to act favorably to the wishes of the United States in the matter, after careful consideration he had been unable to reach the conclusion that his Government could make any engagement to prevent Chinese laborers, or any other persons, from going out of Mexico in any direction they may desire which would not contravene article XI of the Mexican constitution, which declares that—

Every man has a right to enter and to go out of the Republic, to travel through its territory and change his residence, without the necessity of any safeguard, passport, letter of safe-conduct, or other like requisite.

Mr. Mariscal further stated that he would be pleased to give the most friendly consideration to any plan that may be formulated and submitted which will secure the object proposed without infringing upon the provision of the constitution referred to.

I am, etc.,

THOS. RYAN.

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PERSIA.

Mr. Pratt to Mr. Blaine.

No. 456.]

LEGATION OF THE UNITED STATES,
Teheran, May 24, 1890. (Received June 28.)

SIR: I have the honor to report that yesterday, the 23d instant, the British minister here, Sir Henry Drummond Wolff, sent me a telegram he had received that morning from Col. C. E. Stewart, the English consul-general at Tabriz, to the effect, as you will see by the inclosed copy, that the wife of the Rev. J. N. Wright, an American missionary residing in the district of Salmas, western Persia, within Colonel Stewart's consular jurisdiction, had been dangerously stabbed by an Armenian and was in a critical condition in consequence, whilst the would-be assassin, owing to dilatoriness of the local authorities, had succeeded in evading arrest.

Immediately upon noting the above, I called on the British minister and asked if he could throw any further light on this subject. He replied that all he knew of it was contained in the telegram transmitted me, but added that he would be glad to forward Colonel Stewart any instructions I desired to give that officer touching the incident in question. I accordingly begged that Colonel Stewart be requested at my expense to telegraph the name of the party suspected of this crime and such other information relating thereto as might be at present obtainable.

My next step was to endeavor to see the prime minister, His Highness the Eminé Soultan, but since—owing to an engagement in the country with the Shah—His Highness was unable to give me an interview until the following afternoon, I deemed it obligatory, in view of the urgency of the case, to address him an official note, in which, as you will observe by the accompanying copy and translation, after briefly stating the facts as reported, I urged that peremptory telegraphic instructions be sent the governor of Salmas to take the necessary measures for effecting without delay the arrest of the perpetrator of this crime.

Then, to forestall any distorted account of the affair that might reach the Government or the public through nonofficial channels, I at once cabled you the following:

Wife of J. N. Wright, American missionary, Salmas, western Persia, been dangerously stabbed by an Armenian. Have demanded immediate arrest.

SPENCER PRATT.

This morning I received from His Highness the Eminé Soultan two telegrams, the one to the governor of the province of Azerbaijan, the other to the governor of the district of Salmas, ordering that upon the representations made by this legation immediate steps be taken for the apprehension of Mrs. Wright's assailant and a report of the occurrence returned by telegraph.

Having assured myself of the transmission of the two telegrams referred to, I sent you to-day my second cable message, reading as follows :

In compliance with my demand, immediate arrest ordered.

SPENCER PRATT.

Regarding Mrs. Wright's nationality, I have to say that she was born a Persian Nestorian, but, having been married for the last 5 years to the Rev. J. N. Wright, a native citizen of the United States, and lived with him in lawful wedlock for the whole of that time, part of which was spent in America, there appears no question as to her claim to American citizenship under section 1994 of the Revised Statutes.

In view of the above, I trust you will approve the action I have taken in this matter, which justice and the personal safety of our citizens here seemed imperatively to demand.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 456.]

Colonel Stewart to Sir H. D. Wolff.

[Telegram.]

TAURIS (TABREEZ), May 23, 1890.

HER BRITANNIC MAJESTY'S MINISTER,

Teheran :

The wife of Rev. J. Wright, American missionary here, was stabbed by an Armenian. She is very dangerously wounded and is in a critical condition. I am doing everything to get assassin, who fled, arrested.

Governor before my arrival gave no assistance, but is now trying hard to arrest assassin.

Mrs. Wright is by birth a Nestorian. Please inform American minister.

STEWART.

[Inclosure 2 in No. 456.]

Mr. Pratt to Eminé Soultan.

LEGATION OF THE UNITED STATES,
Teheran, May 23, 1890.

YOUR HIGHNESS: I have the honor to inform you that the British minister here, His Excellency Sir Henry Drummond Wolff, has just transmitted me a telegraphic dispatch which came to him this morning from Colonel Stewart, English consul at Tabriz, stating that the wife of the Rev. Mr. Wright, an American citizen residing at Salmas, had been stabbed by an Armenian, and that the governor had not prevented the escape of the assassin.

Accordingly, I beg that Your Highness will send me a telegraphic order to the said governor commanding him to have the guilty party in question immediately arrested, in order that I may be able to notify my Government by telegraph that the Government of His Majesty has taken the necessary measures to insure the punishment of this crime.

Being confident that you will not fail to accede to this request, I beg Your Highness to accept, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 457.]

LEGATION OF THE UNITED STATES,
Teheran, May 26, 1890. (Received July 2.)

SIR: In continuation of my dispatch No. 456 of the 24th instant, concerning the stabbing of Mrs. Wright, at Salmas, I have the honor to report that the same night I received a telegram from His Excellency the Emir Nizam, governor of the province of Azerbaijan, to His Highness the Eminé Sultán, prime minister, from which, as you will note by the inclosed translation, it appears that the criminal in this affair has been arrested in Turkish territory, where he had taken refuge, and that he is now safely imprisoned in Salmas.

This morning I was handed a telegram from Colonel Stewart, the English consul-general at Tabreez, to Sir Henry Drummond Wolff, the British minister here, briefly confirming the above, a copy of which is also inclosed herewith.

In the same connection I beg to submit the accompanying copy of a letter to Miss Holliday (missionary at Tabreez) from Miss Van Duzse (missionary at Salmas), which the Rev. J. L. Potter, of this city, has just laid before me.

Improper intimacy seems to have been the remote, and revenge the immediate, incentive to this crime. Thanks to Heaven, the unfortunate victim, whose life was at first despaired of, has thus far so rallied from the effects of the murderous assault made upon her that she is now believed to be out of danger.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 457.]

Emir Nizam to Eminé Sultán.

The (would-be) assassin of the wife of Mr. Wright, an American citizen, was a certain Minas, one of the leaders of the Armenian faith at Salmas. After wounding the lady he fled into Turkish territory. I sent a special envoy and wrote to our own deputy at Bárh Kaléh that he should search for him and send him back. The aforementioned deputy, having taken the necessary steps, sent the prisoner back under guard, and now he is in prison in Salmas, and, after investigation, an arrangement satisfactory to Mr. and Mrs. Wright will be effected.

EMIR NIZAM.

[Inclosure 2 in No. 457].

Colonel Stewart to Sir H. D. Wolff.

The Armenian who wounded Mrs. Wright has been seized and imprisoned by the governor of Salmas. The lady is a little better.

[Inclosure 3 in No. 457.]

Miss Van Duzse to Miss Holliday.

SALMAS, May 17, 1890.

DEAR MISS HOLLIDAY: As I have still a little time, I want to tell you about Mrs. Wright.

Minas, a school-teacher from Ooroomeeyah, half Armenian, tried to kill her, and Wednesday night, the first after the affair, we thought she would die.

He has been teaching in Oola and stayed at first in their yard, in a lower room, but he and their woman were together too much, and the Wrights sent him to stay in the

schoolroom, where Tartan, your Armenian teacher, stayed. He still insisted on being with her a great deal. Finally, Mrs. Wright found, one night at 11 o'clock, after they were all in bed, that she was not with the baby in the sitting room, where she slept, and on hunting she came from the yard, and Mrs. W. soon saw him pass under the window to go home. She spoke to him.

The next afternoon the gentlemen turned him off, and when Mr. Wright went into another room to get his half-month's pay he was left alone in the room with Mrs. W. and her brother's wife. They are here visiting. He drew a dagger from his sleeve and tried to cut her throat, and made a cut just the under side of the chin, another one on one side of the jaw, and a cut or stab about 3 inches long on her left shoulder (this was 2 inches or more deep), also a stab nearly 10 inches long on the left shoulder behind, which seems to have pierced the lung, for she raises a trifle of blood. Also, her right hand has two large cuts.

Mr. Mechlin sewed up the wounds, and she had the best care we could give her till, just 2 days after the accident, the doctor (Dr. Samuels) came. That was yesterday afternoon. She is, or seems to be, doing well, and we hope there is now no danger. Minas is only about 20 years old, a gentle, nice-appearing fellow. He has fled. The consul's coming is timely, for the governor does not seem disposed to do much.

Yours, etc.,

A. D. VAN DUZEE.

Mr. Pratt to Mr. Blaine.

No. 458.] LEGATION OF THE UNITED STATES,
Teheran, May 27, 1890. (Received July 2.)

SIR: I have the honor to report, regarding the attempted assassination of Mrs. Wright, treated of in my dispatches numbered 456 and 457 of the 24th and 27th instant, respectively, that I am now awaiting an official account of the said incident from Col. C. E. Stewart, the English consul-general at Tabreez, in whose district the crime was committed.

American interests being under the protection of the British consul in the said district, the British minister here, Sir Henry Drummond Wolff, has very kindly assented to my request to allow Colonel Stewart to officially represent me in the prosecution of the case in question.

This course, which I trust will meet with your approval, I thought the safest to adopt in view of the danger of the prisoner's escaping en route had I insisted upon his being transported hither for trial.

I have, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 459.] LEGATION OF THE UNITED STATES,
Teheran, June 3, 1890. (Received July 12.)

SIR: Referring to my dispatch No. 458 of the 27th ultimo, I have the honor to report that I have just received a letter from Her Britannic Majesty's consul-general, Col. C. E. Stewart, informing me of the active steps he had taken to secure the arrest of the Armenian, Minas, who made the murderous assault upon Mrs. Wright on the 14th of last month, and also a letter from Mrs. Wright's husband, the Rev. John N. Wright, giving in minute detail an account of the said incident.

Copies of the letters above mentioned I herewith respectfully submit for your consideration, with copies of my answers to the same, which I trust will meet with your approval.

At my request the prime minister, His Highness the Eminé Soultan, has appointed this afternoon to see me in regard to the affair in question, when I shall repeat to him the contents of the aforesaid communications and request that the accused criminal be taken, under strong military escort, to the capital of the province, Tabreez, there to be tried in the presence of Consul-General Stewart, who, I will inform him, is designated to act as my representative at the trial to ensue.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 459.]

Colonel Stewart to Mr. Pratt.

OOROOMEEYAH, May 24, 1890.

DEAR MR. PRATT: Excuse my writing you on this paper and in an unofficial form, but I am at Ooroomeeeah and just before the post went out received a telegram from the governor of Salmas telling me that the assassin of Mrs. Wright has been arrested by the governor's men and is being brought to Salmas. The missionaries themselves had promised a reward of 25 tomans for the capture of the man, but I also furnished 25 tomans more, as I thought it necessary to stimulate the zeal of the men sent in pursuit of the assassin.

Before I had arrived at Salmas the governor had done nothing. It is true he was absent some 13 miles from the town of Dilman, which is the headquarters of the Salmas district.

I at once rode off 13 miles to the governor, woke him out of his sleep, and got him to go into the mountains with me to follow out a trace of the assassin which I had obtained.

It was too late then, as the man had escaped 4 days previously, to arrest the assassin, but I had a very rough and hot ride and showed the governor that I was really in earnest about the matter.

The trace I had obtained through the missionaries was duly followed up and has finally led to the capture of the man.

After I had seen him the governor did exert himself to capture the man.

I have written to the authorities in Tabreez informing them of the capture of the assassin.

Mrs. Wright, though not even now out of danger, is likely to recover. On the 21st it was feared she would die, but she rallied.

As I am absent from Tabreez on business here, I would ask that you should take what steps you may consider necessary to obtain due punishment of the man. I shall, I hope, be back in Tabreez by about the 10th or 11th of June and shall be happy to do whatever you may wish about seeing that the man receives such punishment as you may desire.

Orders must, I think, come from Teheran about the case.

I think the prompt measures I took for the arrest of the attempted assassin and the interest I showed in the matter will insure protection to the missionaries for the future.

Now remains the question of what punishment the assassin should receive from the Persian authorities.

Yours, sincerely,

C. E. STEWART.

[Inclosure 2 in No. 459.]

Mr. Wright to Mr. Pratt.

OOLA, SALMAS, May 24, 1890.

DEAR SIR: On the 14th instant, at 3.30 p. m., a dastardly attempt was made to assassinate my wife.

Minas, the would-be murderer, who came here from Ooroomeeeah, and is a graduate of our college there, had been teaching the school in this village for us the past winter. Last fall we gave him a room in our house, as he was a stranger and came to us well recommended. But, finding in the course of time that he and our maidservant were

too intimate (though we had no idea that they were criminally so at that time), we removed him from our yard in February last to a room in an adjoining yard belonging to our premises. But Minas still found a way to get with Asli, our maidservant, when we sent her out to walk with the children or on our roof. We rebuked her for thus allowing him to follow her every place. Still, we had no definite idea of any criminal intercourse between them.

But on the night of the 13th instant, at 11 p. m., my wife awoke, and, finding our maid was not in the adjoining room with our little boy, she began to look about the house for her and finally found Asli coming up the stairs from the yard.

Mrs. Wright, suspecting Asli and Minas had been there together, watched his way to his room (which she could do from our bed-room window). Before long Minas passed from our yard through a gate which was in the wall between our yard and his, having in some way found a key which would unlock the padlock on it.

Mrs. Wright called to him twice, but he slipped rapidly along our wall and soon disappeared in his yard.

This made it evident to us that the teacher and Asli had been living immoral lives. So next day, after seeing Mr. Mechlin, we decided to dismiss him at once.

About 3.30 p. m. I called him to our dining room and told him why we dismissed him. Mrs. Wright and another woman were in the room, the former cutting out a frock for Jennie, our daughter.

There was nothing unusual in Minas's appearance. He took his dismissal as a matter of course, and asked me if I would pay him the balance due on his wages and horse hire to Ooroomceeyah.

"Certainly," I replied, and arose and went into an adjoining room to get the money. But scarcely had I shut down the open safe when I heard heartrending screams. My brother-in-law, who happened to be present with me, and I at once rushed into the dining room.

To our utter amazement we found Minas had attempted to murder my wife and was just fleeing from the door opposite us.

Mrs. Wright, as she cut the garment, had her left shoulder turned towards Minas, who sat on a divan on the opposite side of the room.

As soon as I was fairly out of the room, without a word, he suddenly sprang upon Mrs. Wright and with a dagger, which he at the same moment drew from his sleeve, he first attacked her at the left side of the spinal column, piercing into her left lung. As Mrs. Wright began to turn toward him, he let the next blow fall on top of her left shoulder, cutting an artery, from which the blood spurted as from a fountain. As she turned still further, he attempted to cut her throat, but only succeeded in making an upward cut under her jaw, near the base of the tongue. Twice more he struck, but, Mrs. Wright being now fully turned toward him, one blow struck her in the right wrist and the other in the back of the right hand, inflicting fearful wounds. This was all done so quickly that, although we ran for the door the moment we heard the screams, it was all finished before we entered the room.

As Minas descended the stairs he met our gatekeeper running toward them, and, making a thrust at him with his dagger, passed and went out of the yard gate.

I at once gave word to the villagers to arrest him, through the said gatekeeper and my brother-in-law, and, leaving that work for them, we gave ourselves at once to the more necessary work of caring for Mrs. Wright. So profuse was the flow of blood that before I could tear open her clothes and close the two wounds in her back and shoulder she had little left in her. I held these gashes shut for upward of half an hour before Mr. Mechlin arrived; then we sewed these two up as best we could and fastened all with court-plaster. She was so faint we did not think it best to attempt to sew up the other wounds, so we fastened them as best we could with court-plaster and bandages.

To add to the difficulty, Mrs. W. showed every symptom of having a miscarriage; indeed, this seemed the greatest danger of all.

We telegraphed at once to Ooroomceeyah for a doctor, but for various causes it was 2 full days before Dr. Samuel, a Nestorian physician, arrived. During all this time Mrs. Wright's wounds had not been properly dressed or bandaged, because none of us had had any experience in such matters before.

You can better imagine than realize the anxious suspense we were in during this time. During the week which has passed since the calamity Mrs. Wright has suffered greatly, and still remains so very weak that she may die any day.

The shock which her nervous system sustained is so great that it greatly complicates matters. At the same time that we sent the telegram to Ooroomceeyah for a doctor (i. e., within an hour after the assassination) we gave word in Dilman to the governor of Salmas, Hadji Khan, or rather to his son, Aziz Khan, who was "naibi hukuveat" in his father's temporary absence at Charu, 3 hours' ride distant.

The naibi hukuveat excused himself by saying it was fast time, and the men could not leave until they had eaten in the evening, and that his father had taken most of them away anyhow.

On hearing this reply I sent the same man again, but he found the naibi's door shut up, and no one would answer his call.

It went on thus from Wednesday, the 14th, at 4 p. m., till Sunday, 18th, and the authorities did absolutely nothing to arrest the murderer.

We offered a reward of 25 tomans soon after the crime was committed for the arrest of the perpetrator, but nothing was done.

On Saturday, the 17th, very providentially, Her Britannic Majesty's consul-general, Col. C. E. Stewart, who happened to be on his way to Ooroomceyah, stopped at my house to remain with us on the Sabbath.

On hearing the news of the crime and the neglect of the Government to do anything toward arresting Minas, he was much moved and at once sent a note to the naibi hukuveat, with the request that he send it at once to his father in Charu. Sunday morning the consul went himself to Charu (and got there just as his note sent the previous day did) and told Hadji Khan he must at once send to arrest that young assassin, or that he would telegraph both to you and the British minister about his negligence.

The governor, now fully scared, began at once to take vigorous measures to trace the steps of Minas. Colonel Stewart went with him in person that day to see to it. Since then Hadji Khan has been doing what he can to overtake Minas, but the 34 days' grace he had gave him such a start that the odds are against the governor. He has traced him up till he passed into Turkish territory, near Bârh Kaléh, and has sent a telegram and his own "filorda" (bridle holder) to Bârh Kaléh to request the Persian consul there by all means to capture him.

23d, a. m.—Word came last evening that Minas had got a passport at Bârh Kaléh for Van and had started on with an Armenian guide the day before the governor's men arrived.

Three Persians and a servant of the Persian consul at Bârh Kaléh followed right on after him with the hope of overtaking him before he could enter Van, but I doubt if they would succeed in doing so.

Colonel Stewart offered a reward of 50 tomans and expenses of capture the day after his arrival, in addition to the 25 tomans we had offered previously.

The probabilities are that the traitor will be arrested sooner or later. We will await orders from you as to what disposal shall be made of him.

Colonel Stewart left us yesterday (Thursday) for Ooroomceyah and will go from there on south and around Lake Ooroomceyah for nearly 2 weeks. He will be a guest at the house of Dr. J. P. Cochran.

We feel ourselves under very great obligations to Colonel Stewart and to Her Britannic Majesty's Government for the timely and vigorous aid given; and I know I only voice the desire of this station and of the mission when I say I hope you will, on the part of yourself and of our Government, write him a letter of thanks; and, while I do not know what our Government is prepared to do in such cases, I feel that Her Britannic Majesty's consul-general and his Government should be fully reimbursed for expenses incurred in attempting to defend our lives and having the criminal arrested. He would not consent to receive aught from us, saying he had only done his duty.

This morning (the tenth day) Mrs. Wright seems a little better, and we are now somewhat encouraged to hope for her ultimate recovery, but I doubt if she will ever be again what she was before.

May 24.—News has reached us this morning that Minas was captured last Thursday afternoon, the 22d instant, 4 hours east of Van, by the man who followed him up from Bârh Kaléh. They brought him at once towards Salmas, and he has just now (Saturday noon) arrived at Dilman.

We have sent Hadji Khan, the governor of Salmas, word, by the man he sent to inform us of Minas's arrival, that we leave the matter of his punishment entirely with you and the English consul, Colonel Stewart, as well as the settlement of the amount to be paid out for the pursuit and arrest. It will probably be not less than 100 tomans.

Hadji Khan said he would at once telegraph Colonel Stewart, at Ooroomceyah, of Minas's arrest and imprisonment at Dilman and await his instructions.

I leave the matter of his punishment entirely with you and Colonel Stewart, feeling sure that justice will be done and that he will be made an example, so that other evildoers may fear the results of their crimes.

Of course, he should not be put to death unless Mrs. Wright should yet die; but the punishment due for premeditated and deliberately attempted murder should be meted out to him.

Yours, very truly,

JOHN N. WRIGHT.

[Inclosure 3 in No. 459.]

*Mr. Pratt to Colonel Stewart.*LEGATION OF THE UNITED STATES,
Teheran, June 3, 1890.

MY DEAR SIR: I beg to acknowledge your letter of the 24th ultimo, from Ooroom-eeyah, the contents of which I have read with great interest.

By to-day's mail, which is now about to close, I have only time to hastily express to you my sincere thanks for the energy you have displayed in the pursuit of Mrs. Wright's dastardly assailant, whose ultimate capture would in all probability never have been effected but for your personal exertion and the direct and timely pressure which you brought to bear upon the local governor of Salmas, who I must have brought to task for neglect of duty.

You may rest assured your prompt and decisive action in this matter, of which I shall immediately inform the honorable Secretary of State, will be duly appreciated by the American Government.

Upon receiving the first intimation of the assault upon Mrs. Wright, and whilst the would-be assassin was still thought to be at large, I caused the most positive orders for the latter's arrest to be telegraphed by the prime minister, His Highness the Eminé Soultan, to His Excellency the Emir Nizam, at Tabreez, as well as to the governor of the district of Salmas.

This evening I am to have an interview with His Highness the Eminé Soultan in regard to Mrs. Wright's case and the punishment of the criminal, who, I consider, should be made to fully expiate the enormity of his crime, in order both to vindicate the law in the present instance and establish an example for the future.

In closing, let me request that you will kindly inform me as to the total amount you have thus far expended in connection with this matter, in order that I may refund you the same.

I gladly accept the offer you have so courteously made to represent me in the prosecution of the case in question, and am happy to say that this is entirely in accordance with His Excellency Sir Henry Drummond Wolff's views in the premises.

Believe me, etc.,

E. SPENCER PRATT.

[Inclosure 4 in No. 459.]

*Mr. Pratt to Mr. Wright.*LEGATION OF THE UNITED STATES,
Teheran, June 3, 1890.

DEAR SIR: I have received your letter of the 22d ultimo, and have read with horror and indignation the account it gives of the murderous assault made upon your wife, Mrs. Wright, on the afternoon of the 14th.

Upon receipt of the first intimation of this crime, and before any particulars thereof had yet reached me, I at once brought the matter to the attention of the prime minister, His Highness the Eminé Soultan, who, at my instance, dispatched the most peremptory telegraphic orders both to the governor of Salmas and to the Emir Nizam, at Tabreez, for the immediate pursuit and arrest of the criminal Minas, who was then still supposed to be at large.

Two days later the Emir Nizam telegraphed that the said arrest had been effected in Turkish territory, and that the prisoner would be returned to Salmas. This was confirmed by a telegram from Colonel Stewart, from whom I have just now received a letter exposing the culpable neglect displayed by the local authorities in permitting the criminal's escape and informing me of the steps he (Colonel Stewart) had been forced to take to insure the latter's ultimate capture. I am to have an interview with His Highness the Eminé Soultan this evening, when I shall lay all of the above facts before him and ask that the prisoner Minas be sent under heavy guard to Tabreez, there to be tried in the presence of Colonel Stewart, who the British minister has kindly consented to allow to represent me on the occasion.

I have written Colonel Stewart to advise me as to the expenses he has thus far incurred in this affair, so that I may refund him the amount. I have also instructed the colonel to so prosecute the case in question that the perpetrator of this monstrous deed shall be made to pay the full penalty of his crime, in order to satisfy justice in the present instance and serve as an example for the future.

It is my earnest prayer that Mrs. Wright may yet recover from the effects of her wounds.

I have duly cabled what has occurred to our Government.

Sincerely, yours,

E. SPENCER PRATT.

Mr. Prate to Mr. Blaine.

No. 460.]

LEGATION OF THE UNITED STATES.

Teheran, June 4, 1890. (Received July 12.)

SIR: I have the honor to report that yesterday, the 3d instant, I had an interview with the prime minister, His Highness the Eminé Soltan, in which, after submitting to His Highness the account of the murderous assault made upon Mrs. Wright and the pursuit and capture of the assailant, as related in the letters from Rev. John N. Wright and Consul-General Stewart, of which copies were inclosed to you in my dispatch No. 459 of the same day, I requested that orders be given by telegraph to transfer the prisoner Minas to Tabreez, there to be tried in the presence of Consul-General Stewart, as my representative in the case, and that the governor of Salmas be brought to task for not having prevented the escape of the criminal in the first instance.

His Highness replied that the desired telegraphic instructions for the transfer of the criminal to Tabreez for trial would be immediately sent forward, and that he should at once give orders for the punishment of the governor of Salmas for neglect of duty.

Last night, after leaving His Highness, I was shocked to receive a telegram from Colonel Stewart, which (translated from the Persian) read as follows:

Mrs. Wright died from the effect of her wounds on the 1st instant. Order the criminal sent to Tabreez.

The above I at once communicated to the prime minister, who expressed profound regret at the news and stated that orders for the prisoner's transfer to Tabreez for trial had already gone forward.

This I accordingly telegraphed to Colonel Stewart, at Ooroomeeyah, adding the request that he represent me in the prosecution of the case upon his return to his Tabreez post, which same he has telegraphed back his readiness to do, stating that he will in all probability reach Tabreez as soon as the prisoner.

At the same time, in order that you might be apprised forthwith of the serious turn of affairs, I sent you the cable message following:

Mrs. Wright dead. Criminal under arrest awaiting trial.

PRATT.

In closing, I think it proper to call your special attention to the fact that immediately on learning of Mrs. Wright's death Sir Henry Drummond Wolff, the British minister here, upon his own initiative, telegraphed Consul-General Stewart at Ooroomeeyah to repair as soon as possible to Tabreez, there to follow out such instructions as I should give him concerning the case in question.

This action of the British minister, wholly unsolicited on my part, can not fail, I think, to be appreciated by our Government.

I have, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 461.]

LEGATION OF THE UNITED STATES,

Teheran, June 12, 1890. (Received July 19.)

SIR: I have the honor to submit for your consideration the accompanying copies of the correspondence (inclosures Nos. 1, 2, 3, and 4) that has passed between Consul-General Stewart and myself relative

to the Salmas murder case since my dispatch No. 460 of the 4th instant.

It is to Colonel Stewart's statement regarding the present lawless attitude of the Armenians inhabiting the Perso-Turkish frontier provinces and the alleged confession of Minas, the murderer of Mrs. Wright, of his previous intention to assassinate both that lady and her husband—which last was indirectly reported to me as having been confided by the said Minas to his supposed mistress, Asli, who divulged it after his arrest—that I would call your special attention.

In view of the facts, I think you will approve my course in insisting that the said criminal be tried and punished in accordance with his crime at Tabreez, the capital of the province in which the deed was committed, and in recommending that the woman Asli be also subpoenaed and made to testify on the occasion.

I do not anticipate that this incident will give rise to trouble, but, should it do so, and lead to any threatening demonstration on the part of the Armenian or Nestorian population of Azerbaijan against the American residents there, it is my intention to proceed myself to Tabreez, in order to see to the proper protection of our citizens in the above province.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 461.]

Colonel Stewart to Mr. Pratt.

No. 1.]

OOROOMEEYAH, May 31, 1890.

SIR: I have the honor to address you on the subject of the Armenian Minas, who is in confinement at Salmas for a murderous assault on the wife of the Rev. J. Wright, American missionary at Salmas.

I have already forwarded two telegrams to Her Britannic Majesty's minister at Teheran on this matter, which I asked might be shown to you, and I also addressed you by letter on the 24th instant, informing you that the assassin had been captured. I now write to suggest that the prisoner Minas should be removed to Teheran to undergo such punishment as you may think necessary to meet the case.

It seems to me necessary that he should not remain in Tabreez. A good deal of excitement has been caused among the Armenians in the Salmas district by this attempt at assassination, and I am surprised to find that the Armenians are anxious that Minas should not be punished and that they have asked the missionaries to forgive the man.

There is, in consequence of the seditious literature which has been spread amongst the Armenians both in Turkey and Persia by the newspapers and other periodicals published at Marseilles and elsewhere, a feeling of disregard of all authority and a feeling in favor of criminals.

I have written to the Emir Nizam, asking that Minas may be sent to Tabreez, as I do not consider that he is in very safe custody in Salmas.

I would suggest that before Minas is sent to Teheran to undergo any term of imprisonment to which he may be sentenced he should, as a part of his punishment, receive a severe flogging at Tabreez in my presence, as such punishment would bring home to the Armenians that he had been guilty of a crime.

I have not seen the prisoner, as he was seized after I left Salmas, but I understand he allows he made an attempt to shoot both Mr. and Mrs. Wright the night before his attack on Mrs. Wright, and was only prevented carrying out his purpose by an accidental interruption.

The safety of the American community in these parts, I consider, requires that Minas should receive a long term of imprisonment as an example to others.

I have, etc.,

C. E. STEWART,

Colonel, Her Britannic Majesty's Consul-General in Azerbaijan.

[Inclosure 2 in No. 461.]

Mr. Pratt to Colonel Stewart

No. 1.]

LEGATION OF THE UNITED STATES,

Teheran, June 12, 1890.

SIR: I have received your dispatch dated Ooroomeeyah, May 31, 1890, and have carefully considered its contents.

The letter which you were so good as to address me from the above city on the 24th of last month came to hand and was duly acknowledged on the 3d instant, my reply being sent you to Tabreez direct. I was also promptly shown the two telegrams regarding the case of Mrs. Wright which you mention having forwarded Her Britannic Majesty's minister here, and have since received your message conveying the sad announcement that Mrs. Wright had died on the 1st instant from the effect of the wounds inflicted upon her by the Armenian Minas on the 14th.

In view of this, I consider that the said case, which must now be treated as one of premeditated murder, should be tried in your presence at Tabreez and the criminal there executed, for the especial purpose of bringing this affair home to those very Armenians in western Persia and the adjacent provinces of Turkey whom, in your present dispatch, you describe as having lately become imbued with a spirit of such utter lawlessness.

The above opinion is fully shared by Sir Henry Drummond Wolff, who thinks the suggestion in regard to conveying the prisoner to Teheran for trial was made before you had become aware of the fatal termination of the assault in question. Hence, on receiving your telegram, as follows:

"Have just been informed of the arrival of Mrs. Wright's murderer. Have arranged for first meeting to-morrow. I arrived yesterday."

I replied:

"Your telegram and dispatch received. Think prisoner should be tried and executed at Tabreez. Have written reasons."

The criminating statement, which you say you understand was made by the prisoner, that previous to his assault upon Mrs. Wright he had endeavored to take the lives both of that lady and her husband, but was thwarted in the attempt, has also been indirectly reported to me as having been repeated by the criminal's alleged paramour, who, I think, should in consequence be brought to Tabreez and examined, in order to elicit the fact as to whether or not there are any others implicated in this crime, which may turn out to have been a conspiracy of far greater extent than would appear at first sight.

On the evening of the 3d I explained to His Highness the Eminé Soultan the particulars of the assault made upon Mrs. Wright and told him of the steps you had taken to effect the criminal's arrest, as well as of the inaction displayed by the governor of Salmas previous to your arrival, for which I requested that the latter might be severely brought to task. At the same time I asked that telegraphic orders be sent for the transfer of the prisoner under strong guard to Tabreez, where you would officially represent me at his trial. To all of which His Highness immediately assented. When, the following day, I sent him your telegram announcing Mrs. Wright's death, he expressed profound regret and assured me that positive orders had already been given for the removal of the criminal to Tabreez, where the Emir Nizam was instructed to have him tried in your presence and sentenced in accordance with the law and to my satisfaction.

Let me here again repeat to you the assurances of my sincere appreciation of the manner in which you have exerted yourself in behalf of our people in the present instance.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 462.]

LEGATION OF THE UNITED STATES,

Teheran, June 14, 1890. (Received July 21.)

SIR: I have the honor herewith respectfully to submit for your consideration the copy of a communication regarding the trial of Mrs. Wright's assassin which I have this day addressed to the British consul-general at Tabreez, and which I trust will meet with your approval.

I have, etc.,

E. SPENCER PRATT.

[Inclosure in No. 462.]

*Mr. Pratt to Colonel Stewart.*LEGATION OF THE UNITED STATES,
Teheran, June 14, 1890.

SIR: Referring to my dispatch No. 1 of the 12th instant, in which I recommended that the woman Asli, the reported paramour of Mrs. Wright's assassin, Minas, be subpoenaed to appear as a witness for the prosecution at the latter's trial, in order to obtain her testimony regarding, in the first place, the alleged intention of the said Minas to kill both Mr. and Mrs. Wright, and, secondly, the possible complicity of others in this crime, which, as I said, may prove to have been a more extensive conspiracy than was apparent on the surface, I would urge that in the summing up of the indictment you lay particular stress upon the fact that Mrs. Wright was pregnant at the time of her assassination, which, according to the law of the Koran, as I understand it, makes the murder in the present instance a double one.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 463.]

LEGATION OF THE UNITED STATES,
Teheran, June 18, 1890. (Received July 26.)

SIR: I have the honor herewith respectfully to submit for your consideration the copy of a dispatch I have received from Consul-General Stewart, at Tabreez, relative to the case of Mrs. Wright's assassination, with a copy of my reply to the same, which I trust you will approve.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 463.]

*Colonel Stewart to Mr. Pratt.*BRITISH CONSULATE-GENERAL,
Tabreez, June 11, 1890.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, acknowledging receipt of my letter from Ooroomeeah dated 24th May. I have to thank Your Excellency for the expression of your approval of what I did to obtain the arrest of the murderer of Mrs. Wright.

I received your telegram, which reached me, in Persian, at Soutchbulak, near the south end of the lake of Ooroomeeah, on the 6th instant, asking me to represent you at the proceedings taken against the murderer of Mrs. Wright. I replied at once, in Persian, as telegrams could not be sent from thence in English, saying I was about to proceed to Tabreez for that purpose. Soutchbulak is 126 miles from Tabreez and I started at once and made the distance in four long marches. There is no direct chappar from that place, or I should have come chappar.* I reached Tabreez on 10th June before the murderer of Mrs. Wright had arrived here. He was brought in chained last evening, and I was informed of it this morning.

I arranged that the first meeting to go into the case of murder should take place to-morrow.

It is a sad story, the murder of Mrs. Wright. Though she was not by birth an American, being a Nestorian, born in Turkish territory, she was a highly educated lady who had been in America, and Mr. Wright, I understand, is very much stricken by his loss. She leaves two young children.

The murderer Minas had no grounds of quarrel either against her or Mr. Wright, who had treated him most kindly. He had, however, made an attempt to shoot both Mr. and Mrs. Wright the night previous to his murder of Mrs. Wright, and was only foiled by their having changed the position of their sleeping place, and he was thus unable to shoot them through the window as he had intended.

* Service of post horses.

I have not yet seen the murderer, but I hear he confesses to this first attempt, so there is no palliation of the offense of murder committed by him, and his crime undoubtedly deserves a death sentence.

Although the governor of Salmas was supine in the first instance, he did exert himself after I arrived and had spoken strongly to him, and his successful arrest of the murderer and bringing him from Turkish territory without encountering difficulties from the Turkish authorities deserves some praise.

The missionaries themselves have given a reward of 50 tomans to 3 out of the 4 capturers of the murderer. The fourth, a servant of the governor, the governor would not allow to accept a share of the money, as he said he was in the service of the Persian Government and could only be rewarded through it.

I propose to address Your Excellency by the next post in view to a small reward being given besides that already given by the missionaries.

I have expended no money as yet in the matter except a single toman for information and the price of a few telegrams to you. I will let you know the amount afterwards.

You may feel satisfied I shall do my best so far as it is in my power to bring this business to a successful termination. His Excellency the Emir Nizam seems ready to help in every way.

It is rumored, though I do not know if its true, that some Armenians offered 200 tomans to the governor of Salmas if he would connive at the escape of the prisoner.

I have, etc.,

C. E. STEWART,
Colonel, Her Majesty's Consul-General, Tabrees.

[Inclosure 2 in No. 463.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, June 18, 1890.

SIR: I have received your dispatch of the 11th instant from Tabreez, acknowledging the receipt of the letter I addressed you to that city on the 24th ultimo, as well as of my telegram which reached you at Soutchbulak on the 6th of this month, your reply to which came duly to hand.

The great fatigue of your 126 miles' continuous ride from Soutchbulak to Tabreez I fully appreciate, and, whilst sincerely thanking you for having thus exerted yourself in order to reach the latter city upon the prisoner's arrival there, trust you will not suppose I should ever have consented to your subjecting yourself to a like hardship could I have anticipated your intention in the premises.

I note what you say about the criminal Minas having reached Tabreez in chains on the evening of the 10th instant, and of the first session of the court to try his case having been fixed for the day following that on which you wrote.

The particulars you give of the said criminal's previous attempt to murder both Mr. and Mrs. Wright I have also carefully considered. As regards the prosecution, I see no occasion to modify the recommendations contained in my dispatches of the 12th and 14th instant, which you must ere this have received.

The alteration which you refer to in the conduct of the governor of Salmas after your appearance on the scene I shall bear in mind, and hasten to assure you that it will afford me pleasure to act upon such suggestions as you may think proper to make concerning the matter of additional reward for the criminal's pursuit and capture.

The question of the alleged attempt to bribe the governor of Salmas to connive at the prisoner's escape whilst the latter was in his custody it might be well to investigate, but this I prefer to leave to your discretion.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 464.]

LEGATION OF THE UNITED STATES,
Teheran, June 25, 1890. (Received July 26.)

SIR: I have the honor respectfully to submit for your consideration the accompanying copies of correspondence (inclosures Nos. 1, 2, 3, and

4) that has passed between Consul-General Stewart and myself relative to the trial at Tabreez of Mrs. Wright's assassin since my dispatch No. 463 of the 18th instant.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 464.]

Colonel Stewart to Mr. Pratt.

BRITISH CONSULATE-GENERAL,
Tabreez, June 14, 1890.

SIR: I have the honor to acknowledge your telegram of the 1st instant, as follows: "Your telegram and dispatch received. Think criminal should be tried and executed at Tabreez. Have written reasons."

I have not as yet received the dispatch you mention in the above telegram, but I quite agree that the prisoner Minas should be executed at Tabreez. At the time I suggested he should be flogged at Tabreez and then undergo a long term of imprisonment at Teheran Mrs. Wright had not died and the circumstances were quite different. It was only on my return to Tabreez that I heard that Mrs. Wright had actually died in giving birth to a dead child. She was so weak and ill from the great loss of blood from her wounds and was in so critical a condition from them that she could not bear a confinement. Dr. Bradford, of the Presbyterian Mission, was with her the last 24 hours.

There has been a preliminary inquiry at the foreign office here in my presence, the prisoner Minas being brought in. He has, up to the last few days, been quite free in confessing the murder of Mrs. Wright by him, and I hoped that he could be condemned on his own confession. Before the court, however, though he was as sharp as possible in every other way, he declared that his mind was a complete blank as to Mr. and Mrs. Wright, and that all events for the period about the murder had faded from his memory. Of course, this is mere nonsense, but it forces me to prove the murder by witnesses. I have plenty of witnesses and have summoned from Ooroomeezyah where they now are, Mr. Mechlin, who sewed up Mrs. Wright's wounds; Mr. Theodore, Mrs. Wright's brother, who was in the next room when Mrs. Wright was stabbed; his wife, Phoebe, who was actually in the room at the time; and the door-keeper, who saw Minas run away with the dagger in his hand.

I have asked that Mr. Wright should, if possible, come, though I have not pressed it, as I think I have ample evidence without him.

This matter will only, I hope, delay the taking of evidence for a few days. I shall do my best to get the matter settled as speedily as possible.

I have, etc.,

C. E. STEWART,
Colonel, Her Majesty's Consul-General, Tabreez.

[Inclosure 2 in No. 464.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, June 21, 1890.

SIR: I have received your dispatch of the 14th instant, acknowledging the receipt of my telegram of the 12th, and note what you say of the prisoner Minas on the occasion of the preliminary examination held in your presence, affecting to be entirely oblivious of Mr. and Mrs. Wright and of all events that occurred at the time of the latter's assassination.

From this it would appear as though the accused hoped to escape the penalty of his crime on the ground of having been *non compos mentis* when the deed was committed.

Such a plea I should, of course, consider wholly inadmissible under the circumstances, but since the defense may advance it *comme dernière ressource*, and it is not likely that in any event the prisoner can be further induced to testify against himself, I can only commend your course in summoning Mr. Mechlin, Mr. and Mrs. Theodore, and Mr. Wright to appear as witnesses for the prosecution, and would again advise that the woman Asli, the criminal's alleged paramour, be also subpoenaed for the same purpose.

I am, etc.,

E. SPENCER PRATT.

[Inclosure 3 in No. 464.]

Colonel Stewart to Mr. Pratt.

BRITISH CONSULATE-GENERAL,

Tabreez, June 18, 1890.

SIR: I have the honor to acknowledge the receipt of Your Excellency's dispatch No. 1, dated 12th June, 1890.

You are quite correct in thinking that my dispatch of the 31st May, suggesting that the murderer Minas should be taken to Teheran to undergo a long term of imprisonment, after having been severely flogged in Tabreez as an example, was written before Mrs. Wright's death and when I hoped she was likely to recover from the severe wounds inflicted on her. She did not die until the 1st June.

There is now only one course open, as directed in your telegram of the 12th instant, the receipt of which I have already acknowledged in my dispatch of the 14th instant, viz, that the criminal should be tried and executed at Tabreez as an example and warning to others. I am awaiting the arrival of the witnesses from Ooroomceeyah to proceed with the prosecution of Minas.

I will, as suggested in your dispatch now under reply, cause the assassin's alleged paramour to be summoned as a witness. I can not myself summon her, as she is a Persian subject and now living at her home near Ooroomceeyah.

You may feel certain I will press the case and do my best to obtain the execution of the assassin Minas without any unavoidable delay.

I have, etc.,

C. E. STEWART,

Colonel, Her Majesty's Consul-General, Tabreez.

[Inclosure 4 in No. 464.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,

Teheran, June 25, 1890.

SIR: I have now your dispatch of the 18th instant, in which you mention having received my No. 1 of the 12th and note that you are only awaiting the arrival of the witnesses summoned from Ooroomceeyah to proceed with the trial of the prisoner Minas, Mrs. Wright's assassin.

I am curious to know if, as on the occasion of the preliminary examination referred to in your dispatch of the 14th, the prisoner still continues affecting entire unconsciousness as regards all events connected with, or which occurred at the time of, the perpetration of his crime.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 469.]

LEGATION OF THE UNITED STATES,

Teheran, June 30, 1890. (Received August 6.)

SIR: I have the honor herewith respectfully to submit for your consideration a copy of the latest communication I have received from Consul-General Stewart relative to the Wright murder case, as also a copy of my reply to the same, which I trust you will approve.

From what he now writes, you will observe that Colonel Stewart's views and my own are identical as to the interpretation of the law of Islam in regard to the killing of a child "*in utero*," and that he therefore intends, in accordance with my previous instructions, to advance and press the charge of double criminality against the accused in the present instance.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 469.]

*Colonel Stewart to Mr. Pratt.*BRITISH CONSULATE-GENERAL,
Tabreez, June 21, 1890.

SIR: I have the honor to acknowledge the receipt this day of Your Excellency's dispatch No. 2, dated 14th June, 1890.

I have already summoned the woman Asli to appear as a witness, but I fear she will, at the trial, deny her previous statement, as I hear she has told Dr. Cochran she will give no evidence in the matter.

Mr. Mechlin has just arrived, also Theodore, the late Mrs. Wright's brother, and a man who saw Minas running away from Mr. Wright's house on the afternoon of the 14th May, just after the murder, with a dagger in his hand. The other witnesses are en route.

I have summoned Dr. Shedd, to whom Minas confessed the murder of Mrs. Wright and asked him to pray for his soul, so I shall have ample evidence.

With reference to the last part of your letter under reply, I am aware that, according to Mohammedan law, the causing the death of a child of a pregnant woman is murder, and this child, having been a son in a well-formed state, I shall, as directed in your letter, press home this charge, and have full evidence to prove it. I had, however, intended to do this previous to the receipt of your letter.

I have, etc.,

C. E. STEWART,
Colonel, Her Majesty's Consul-General, Tabreez.

[Inclosure 2 in No. 469.]

*Mr. Pratt to Colonel Stewart.*LEGATION OF THE UNITED STATES,
Teheran, June 30, 1890.

SIR: I have received your dispatch of the 21st instant acknowledging the receipt of my own of the 14th and informing me that you had summoned Dr. Shedd and Asli, the alleged paramour of the assassin Minas, to testify at the latter's trial.

I am also glad to note the arrival at Tabreez of Mr. Mechlin, Mr. Theodore, and a man said to have seen Minas escape from Mr. Wright's house on the afternoon of the 14th of May, the day the murder was committed.

These, with the witnesses already subpoenaed, will, I trust, amply suffice to establish the prisoner's guilt, even though, as you appear to apprehend, the woman Asli should deny her previous statements or decline to give any evidence whatever at the trial.

In closing, I beg to say that I am gratified to observe that your interpretation of the Mohammedan law on the subject of the killing of a child "*in utero*" is the same as my own, and that you propose to firmly press this additional charge of murder in the present instance.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 472.]

LEGATION OF THE UNITED STATES,
Teheran, July 5, 1890. (Received August 9.)

SIR: I have the honor to submit for your consideration the copies of correspondence that has passed between Consul-General Stewart and myself relative to the Wright assassination case since my No. 469 of the 30th ultimo.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 472.]

*Colonel Stewart to Mr. Pratt.*BRITISH CONSULATE-GENERAL,
Tabreez, June 28, 1890.

SIR: I have the honor to acknowledge the receipt of Your Excellency's dispatches Nos. 3 and 4.

The witnesses summoned by me have all arrived except the woman Asli. She refuses to come or give any evidence. I tried in the first instance to persuade her to come through the missionaries, as I thought it would be better that she should come with the missionary party and not be tutored by the Persian authorities.

When I was at Salmas the woman Asli was a willing witness and made statements to several people. As soon as I heard of her unwillingness to come I summoned her through the Persian authorities and hope she may soon arrive; but, as I have two good witnesses who can repeat her statements, and I have a witness, Deacon Zeah, of Salmas, to whom Minas while in prison at that place confessed that he had the night previous to stabbing Mrs. Wright come to the house with a revolver for the purpose of shooting both Mr. and Mrs. Wright, I think I can prove the case sufficiently, even though I do not get the woman Asli's evidence. I shall, however, do my best to obtain it.

The witnesses for the prosecution arrived here on Wednesday, and I applied for the court to reassemble the next day, but on that day the agent for foreign affairs the Wakil-ul-Mulk was replaced by a new agent for foreign affairs, appointed under orders from Teheran, the Mustashar-nd-Doulch. The Persians, therefore, represented that it was impossible under the circumstances of the change of foreign agents to hold the court that day and asked for a delay of 2 days. Under the circumstances, I consented, and the trial is to recommence to-day.

I send a list of the charges I have framed against the prisoner Minas, and I have ample evidence to prove these charges. The witnesses I have are Mr. Mechlin, who sewed up Mrs. Wright's wounds; Dr. Shedd, to whom Minas, when captured, confessed having stabbed Mrs. Wright; Dr. Samuel, who attended Mrs. Wright; Theodore, brother of Mrs. Wright, and his wife, who were in the house at the time of the assassination; the latter was in the room and an eye-witness to the stabbing, also Deacon Zeah, of Salmas, whose evidence I have mentioned above; he can also repeat the confession made by the woman Asli to him. Minister Johanna, of Salmas, to whom the woman Asli confessed that she had prevented the attempt to shoot Mr. and Mrs. Wright the night previous to the stabbing; and, finally, Dr. Mary Bradford, who was with Mrs. Wright at the time of her death and can certify she died of her wounds, and that the death of the male unborn child was, to all appearances, caused by the shock of stabbing the mother.

I did not summon Mr. Wright, though I suggested it would be well if he was able to come. He has not come, and I am rather glad he has not done so, as he is much upset by his wife's death, and his children are ill, and it is difficult for him to leave them.

Besides this, as in Mohanmedan law I understand it is not usual to allow the plaintiff to give evidence, difficulties might have arisen on this point. I could no doubt have overcome them, but I have very ample evidence without him.

The witnesses all ask for payment of their travelling expenses from and back to Ooroomeeyah and Salmas, as the case may be, and Dr. Samuel, who is a medical practitioner unconnected with the mission at Ooroomeeyah, asks for some reasonable compensation for his loss of practice whilst away from that place.

Will you please authorize me to disburse these expenses?

I have, etc.,

C. E. STEWART,
Colonel, Her Majesty's Consul-General, Tabriz.

[Inclosure.]

Charges against Minas, Armenian inhabitant of Oola, Salmas.

First charge. That on Wednesday, the 14th day of May, 1890, answering to the 24th day of Ramazan, 1307, he, Minas, at Oola, Salmas, wounded Shushan Wright, the wife of the Rev. J. Wright, American subject, in many places with a dagger, from which wounds she died on the 1st day of June, 1890, answering to the 12th day of Shawal.

Second charge. That he, Minas, caused the death of Shushan Wright's male unborn child, she having, in consequence of her wounds on the 1st June, given birth to a dead male child.

Third charge. That on the night previous to his stabbing Shushan Wright, the wife of the Rev. J. Wright, Minas came to the house of the Rev. John Wright, and made an attempt to shoot both the Rev. John Wright and Shushan Wright with a revolver.

[Inclosure 2 in No. 472.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, July 5, 1890.

SIR: I am now in receipt of your dispatch of the 28th ultimo, from which I note that you have received my Nos. 3 and 4 and that all the witnesses subpoenaed by you to testify for the prosecution at the trial of the assassin Minas had arrived, except the woman Asli, whom you had found it necessary to summon through the Persian authorities.

Under the circumstances, I agree with you that it was best not to insist upon Mr. Wright's appearing at the trial if his testimony could be dispensed with.

The charges in the list which you inclose appear to fully cover the case, besides having the advantage of being both concise and to the point.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 474.]

LEGATION OF THE UNITED STATES,
Teheran, July 15, 1890. (Received August 18.)

SIR: I have the honor herewith to submit for your consideration the copy of a dispatch I have received from Consul-General Stewart, at Tabreez, with a copy of the minutes it inclosed of the proceedings of the trial of Minas, Mrs. Wright's assassin, as also a copy of my reply to the above, which I trust will meet with your approval.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 474.]

Colonel Stewart to Mr. Pratt.

No. 28.]

BRITISH CONSULATE-GENERAL,
Tabreez, Persia, July 5, 1890.

SIR: I have the honor to forward you the proceedings in the trial of Minas. The preliminary inquiry took 1 day and the actual trial or record of evidence 4 days.

I was informed by the Mustashar-ud-Douleh that the orders received were that the evidence be recorded here, and also the defense of Minas, and then the proceedings should be sent to Teheran for the authorities there to record the finding and sentence on the prisoner. At the preliminary inquiry the prisoner Minas pretended to have forgotten all the circumstances, though this was a mere pretense; but at the actual trial, when confronted with the witnesses, he made no such pretense, and was reasonable and even intelligent in his cross-examination of witnesses and defense of himself.

The trial ended on the afternoon of the 3d July, and I had only Friday and Saturday to make a translation into English of the proceedings and to make two copies of my translation, one for you and one to keep. Under the circumstances and in the time it was impossible to make an exact literal translation of each word, but the meaning of each witness is carefully given, and I think Your Excellency will find that it is a good working translation.

The proceedings in Persian are also sent. The proceedings all through the trial were in duplicate, one copy for the Persian Government and one for you.

The copy for the Persian Government is being sent to Teheran by this post, but your copy is equally an original. They have been compared and when I signed them were exactly alike.

The original letter in Syriac from Minas to David is attached to the Persian proceedings in the hands of the Mustashar-ud-Douleh.

Concerning the age of Minas, he looks about 19 years old, and Mr. Mechlin told me he believed he was about 20 years of age.

When the evidence about his age was taken, I was unprepared for it, and my witnesses who could have told his age were gone away. As by Mohammedan laws a young man becomes of age at 15, and Minas allowed he is about 17 years old, I did not dispute his contention, though I think he is older than his statement by about 2 years.

I thought it better not to keep the case open until the maidservant Asli arrived, as she has not come yet. In fact, I think delay in the settlement of the case is undesirable, and would suggest that Asli be not examined when she arrives, if she does come.

She would probably only give evidence in favor of the prisoner, even though untrue. I would ask orders from you on this subject.

Deacon Zeah and Minister Johanna, to whom she confessed, are still here in case you should wish her to be examined, but I think it undesirable.

The evidence seems to be very complete against Minas, and he has practically no defense.

I have, etc.,

C. E. STEWART,
Colonel, Her Majesty's Consul-General, Tabreez.

[Inclosure 2 in No. 474.]

Translation of proceedings at trial of Minas, the son of Sayad, Armenian, for the murder of Shushan, the wife of the Rev. J. Wright, American subject.

Preliminary inquiry into the case of Minas, the son of Sayad, inhabitant of Ooroomeeyah, which inquiry took place on Thursday, the 23d of Shawal, 1307, answering to 12th June, 1890, at the Persian foreign office, Azerbaijan, in the presence of Colonel Stewart, Her Britannic Majesty's consul-general, and the acting agent for foreign affairs, as follows:

First question addressed to Minas by the acting agent for foreign affairs.

Question. What is your name, and of what place are you an inhabitant, and in what employment were you employed?

Answer by Minas, son of Sayad, of the Ooroomeeyah district. My name is Minas. I am the son of Sayad, native of Dizzeh Tukia, in the Ooroomeeyah district, and I was employed at the village of Oola, in the Salmas district, as a teacher.

Q. Were you in service in the school, and did you receive a salary as teacher or not, and who was the chief person of that school?—A. I was in service, and I received a salary. The chief person of the school was Mr. Mechlin.

Q. Had not the Rev. Mr. Wright something to do with that school?—A. I do not know.

Q. Do you know the Rev. Mr. Wright?—A. Yes; I do.

Q. Was not Rev. Mr. Wright in charge of the school and looked after it and visited it?—A. I do not know.

Q. On the 24th of the month Ramazan (14th May) where were you?—A. I can not recollect. I do not know. I have gone out of my mind.

Q. Since when has this madness and forgetfulness which you say has come over you commenced?—A. I do not know.

(Here the prisoner addressed the English consul-general in English and said, "I am hungry; I have no money for my expenses." Bread was here offered to the prisoner, but he did not accept it.)

Q. Did you know the wife of the Rev. Mr. Wright?—A. Yes; I knew her.

Q. How long is it since you saw Mrs. Wright?—A. I do not know; I can not remember.

Q. Did you know the maidservant who was in the service of Mrs. Wright, and do you know her name?—A. I do remember the maidservant who was in the service of Mrs. Wright, but I do not recollect her name.

Q. Had you any flirtations either with the servant or Mrs. Wright?—A. No, none.

Q. Why were you brought here, and from whence were you brought, and when did you arrive?—A. I do not know; it is 3 days since I arrived here.

Q. Have you received your wages for the past month?—A. I have not received my wages for the past month.

Q. Why have you not received them; did they not give you your wages, or did you yourself not wish for them?—A. I had no necessity for my wages, so I did not take them.

This preliminary inquiry is here closed. Memorandum by the first mirza of the foreign office, Mirza Maasum Khan, who was at that time acting as foreign affairs agent at Tabreez: On this 23d day of Shawal (12th June), these questions to and answers by Minas were made in my presence.

HADJI MIRZA MAASUM KHAN.

Memorandum by Her Britannic Majesty's consul-general: I was present and heard these questions put and answered by Minas.

C. E. STEWART,

Colonel, Her Britannic Majesty's Consul-General.

TABREEZ, June 12, 1890.

Inquiry concerning the circumstances attending the death of the wife of the Rev. J. Wright commenced 10th day of the month Zulkaada, 1307 (Persian), answering to the 28th June, 1890, at the Persian foreign office, in the presence of His Excellency the Mustashar-ud-Douleh and Colonel Stewart, Her Britannic Majesty's consul-general, and the moturned-as-sultanen, Hadji Mirza Maasum Khan, first secretary of the foreign office, Tabreez.

The above court having assembled, Her Britannic Majesty's consul-general states: These three charges which I now hand in, in writing, I make against Minas, the son of Sayad, he having committed these offenses at Oola, in the Salmas district. I will now proceed to prove these offenses against Minas by witnesses.

First charge: That he, Minas, on the 24th day of Ramaan, 1307, answering to the 14th day of May, 1890, at Oola, Salmas, wounded Shushan, the wife of the Rev. Mr. Wright, in many places with a dagger, from which wounds she died on the 1st day of June, 1890, answering to the 12th day of Shawal, 1307.

Second charge: That he, Minas, caused the death of Shushan Wright's male unborn child, she having, in consequence of her wounds, on the 1st of June given birth to a dead male child.

Third charge: That on the night of the 14th May (Persian style, as Persian days commence at sunset, in English counting would be night of the 13th May)—that is to say, the night before the day of the stabbing of Shushan, the wife of the Rev. Mr. Wright—he, Minas, came to the house of Mr. Wright with a revolver in his hand with the purpose of shooting both Mr. and Mrs. Wright.

Minas is present in court and hears the charges made against him read.

First witness is called. Miriam, the wife of Theodore.

Question by the Mustashar-ud-Douleh to Miriam, the wife of Theodore. (Theodore is the brother of the late Mrs. Wright.) She is questioned through Theodore, as the witness only understands Syriac. The witness is solemnly warned to speak the truth, in fact, is solemnly affirmed, and is then asked:

Q. State what happened on the 14th day of May, at the village of Oola, to the wife of the Rev. Mr. Wright?—A. On the 14th day of May, at the village of Oola, I was sitting with Mrs. Wright in the drawing room. We heard a knock at the door of the dining room and Minas, the prisoner now before the court, came in and sat down in the dining room and commenced a conversation with Mr. Wright.

Q. What was the conversation about?—A. As yet I was in the next room, but after a very short time Shushan, the wife of Mr. Wright, went out of the drawing room into the dining room, where Mr. Wright and Minas were, and commenced to cut out some women's clothes. A few moments after this I followed and came into the dining room and sat down beside Mrs. Wright. From the conversation of Mr. Wright and Minas, I understood that he, Minas, was asking Mr. Wright for his wages. Mr. Wright left the dining room, and went into the room where he kept his money safe to fetch some money. At this time there were three persons in the dining room, that is to say, Shushan and myself and Minas. Minas then got up from his place and struck a dagger in between the shoulder blades of Shushan and a second blow with the same dagger on the point of her left shoulder, and he gave her more wounds, one on her right wrist and two on her right hand, and two very slight wounds, one on her chin and one on her neck. After giving these wounds, Minas quickly ran out of the room, leaving his hat and shoes in the room. I and Shushan for a moment were not able to scream. As soon as Minas quitted the room we both began to

scream. Mr. Wright and Theodore, my husband, hearing our screams, came into the room. As soon as they entered the dining room they called out, "What is the matter?" I answered, "Minas has wounded Mrs. Wright and run away." Mrs. Wright from that moment became very ill and died on the 1st of June.

MIRIAM.

Mustashar-ud-Douleh to Minas:

Q. What reply do you make to the evidence of Miriam?—A. I do not know; all these things she says are inventions.

Q. Then who killed Mrs. Wright?—A. I do not know who killed Mrs. Wright.

Q. When you asked for your wages was Mrs. Miriam in the room?—A. I never asked for my wages. The time for the receipt of my wages had not arrived.

Q. Has Mrs. Miriam done anything against you, *i. e.*, is she your enemy?—A. Mrs. Miriam was only a visitor at the house; she has never done anything against me, *i. e.*, she is not my enemy.

MINAS.

The witness withdraws.

Second witness. Theodore (the brother of the late Mrs. Wright), is solemnly affirmed in the same way as the first witness by the Mustashar-ud-Douleh, and questioned.

Q. What evidence can you give?—A. On the 14th day of May, in the village of Oola, I was sitting in the room where Mr. Wright keeps his money safe. I there overheard a conversation going on; I was able to hear that Mrs. Wright and the prisoner now present, Minas, were talking together. I then saw Mr. Wright come out of the next room into that in which I was—in this room he kept his money. He opened the iron safe and began to count out some money. At this moment we heard screams from the next room, which was the dining room, and Mr. Wright and I went into the dining room and saw that Shushan, the wife of Mr. Wright, was wounded. We asked, "What is the matter?" My wife, Miriam, answered, "Minas has stabbed Shushan and run away." From that moment Shushan became ill, and remained ill until her death on the 1st June. During the illness of the wife of Mr. Wright, as she was often bleeding at the mouth, there was always danger of death at any moment.

Question by Mustashar-ud-Douleh to Theodore:

Q. When you arrived in the room what was Shushan's state?—A. At the moment of our arrival in the room Shushan was on her feet; she walked a few paces and then fell on one side of the room. She was bleeding from her wounds. Previous to her death on the 1st June she gave birth to a dead male child and 3 hours afterward died.

THEODORE OSHANA.

Question to Minas by Mustashar-ud-Douleh:

Q. If you have anything to answer to Theodore's evidence, now speak.—A. The voices of most people are much alike. Theodore tells lies about me.

Q. Are you at enmity with Theodore?—A. No; we are not enemies.

MINAS.

The witness withdraws.

Third witness. Jalil, son of Abbas Ali, inhabitant of the village of Oola, a soldier in the old regiment of Khoi, is called in and solemnly affirmed.

Q. What evidence can you give?—A. I was walking at the upper end of the graveyard of Oola when I saw Minas running without his hat or shoes. I said, "Minas, where are you going?" He answered, "Nowhere." At that moment Yadegar, a servant of Mr. Wright, arrived and called out, "Catch Minas; he has stabbed Mrs. Wright." I then went toward Minas; he had a six-chambered pistol in his hand, which he pointed at me. I turned and went away to the window of the house of Mr. Wright. I saw this much through the window, that Mr. Wright was holding Mrs. Wright by the side and blood was running from her wounds. Also, on the day Minas was brought in prisoner I was at the old city Salmas. I saw Minas being brought in. Minas called out to me from a distance and asked, "Is Mrs. Wright dead?" I answered, "She is not dead."

JALIL.

Question by Mustashar-ud-Douleh to Minas:

Q. If you have any answer to Jalil, speak.—A. I was always in the habit of going (for the purpose of nature it is here understood) to the river bank without my hat or shoes. Jalil saw me so going and asked me, "Where are you going?" I answered, "I am going there." From where I met Jalil I went to the river bank, and Jalil turned back. From the river bank I returned to my own house. It was some days after this that I started for Van to acquire learning. Some men followed me, took

me prisoner, and brought me back. When I was being brought back at the Old City, as the people who were bringing me back had told me I was accused of stabbing Mrs. Wright, when I saw Jalil, who was a friend of mine, I asked him, "Is Mrs. Wright dead or alive?" Jalil answered, "She is not yet dead."

MINAS.

Question by Mustashar-ud-Douleh to Jalil:

Q. Was it on the day that Mrs. Wright was stabbed that Minas ran away?—A. Yes; it was on that very day he ran away.

JALIL.

Witness withdraws.

Fourth witness. Mr. Mechlin is called into the court and is solemnly affirmed and questioned by the Mustashar-ud-Douleh.

Q. Give any evidence you may be able concerning the wife of Mr. Wright.—A. On the 14th day of May I was called from my house at Huftawan by a letter from Mr. Wright. It is a quarter of an hour's walk from Huftawan, where I lived, to the village of Oola. When I reached the house of Mr. Wright it was half past 3 o'clock. When I arrived at Mr. Wright's house I saw Mrs. Wright prostrate on the floor and Mr. Wright closing with his hands two wounds on Mrs. Wright, one on the left shoulder and the other between the shoulder blades. Shushan (Mrs. Wright) said to me, "Minas has wounded me." It was the Minas here present of whom she spoke, and Mr. Wright said also it was Minas who wounded his wife. After this conversation Mr. Wright asked me to sew up the wounds of Mrs. Wright. I then sewed them up. Two wounds were very severe and penetrated deeply. After I had sewn up the wounds we carried the lady to her bed. At the time that we took her to her bed she was suffering very much from her wounds. Also, she had two wounds on her right hand; these were not very severe. These wounds I brought together with plaster. We believed that Mrs. Wright was about to expire, and each day there was an expectation of her death until the 1st of June, when she died. She had also a slight wound on the chin.

J. C. MECHLIN.

Question to Minas by the court:

Q. What answer have you to the evidence of Mr. Mechlin?—A. There are many people of the name of Minas. Mr. Mechlin did not himself see me commit the deed. Perhaps it was some other Minas.

MINAS.

Reply by Mr. Mechlin: No; this was the Minas meant. Besides him there was no other Minas in the village.

J. C. MECHLIN.

The above evidence was given by witnesses Saturday, the 28th June, 1890. The court adjourned until Tuesday, the 1st of July.

The court, constituted as before, reassembled at the Persian foreign office at Tabreez on Tuesday, the 1st July, 1890, answering the 13th of Zulkaada, 1307.

Fifth witness. The Rev. J. H. Shedd, D. D., is called into court, and, having been solemnly affirmed by the Mustashar-ud-Douleh, is questioned as follows:

Q. On the subject of Minas and Shushan, the wife of the Rev. Mr. Wright, what evidence can you give?—A. On Wednesday, 5 weeks ago, that is to say, on the 27th May, I heard that Minas had wounded the wife of Mr. Wright. As Minas had been a pupil of mine, I felt very sorry, indeed, to hear this. I went to the prison at Dilman (Dilman is the chief place of the Salmas district) for the purpose of seeing Minas.

The prison was rather dark, so I called out to Minas by his name. At first he did not answer but only cried very much; then said, "My face is black." I said to him, "Why did you do this deed?" He answered, "Satan tempted me." I said to him, "Did you learn this way at Salmas or Ooroomceyah?" He answered, "At Salmas." I then asked, "Had you this purpose in your mind for a long time, and when did you form this purpose?" Minas answered, "I formed this purpose only the day before I committed the deed." I said, "What was the cause of your committing this deed, that is to say, the wounding of Mrs. Wright?" Minas answered, "It was a suggestion of Satan." I said to Minas, "What shall I say to your friends?" Minas answered, "I am worthy of all punishment, but I hope for forgiveness of my soul from God, and I beg you to pray for my soul to God."

J. H. SHEDD.

Question by the court to Minas:

Q. What answer do you make to this evidence?—A. I was in prison in the dark. When I saw Mr. Shedd I did not answer him, I only cried. I never lifted my head from the ground.

On this denial Mr. Shedd said to Minas before the court: "Do you recognize me (i. e., meaning as your teacher)? Do you not know that you and I will have to appear before God? It is better to speak the truth." Minas answered: "Mr. Shedd did come to me in prison; I was in a very bad place and was very uncomfortable; I had my head on the ground and was crying while he was present in the prison. Mr. Shedd prayed and went away."

MINAS.

The Rev. J. H. Shedd, D. D., withdraws from the court.

Sixth witness. Dr. Samuel is called into court, and is solemnly affirmed by the Mustashar-ud-Douleh, and is questioned by the court.

Q. Concerning Shushan, the wife of Mr. Wright, who is said to have been killed by Minas, give what evidence you can.—A. On the 16th day of May I arrived in Salmas district from Ooroomesayah, and at the village of Oola, in the house of Mr. Wright, I saw Shushan in bed, and she was suffering from the wounds. She was in a very dangerous state. I lifted her clothes and inspected her wounds. She had a wound on the left side between the left shoulder blade and the spine. She had a second wound on the left shoulder. One of these two wounds had penetrated to the lung, and in consequence of these wounds pneumonia had supervened. She coughed, bringing up bloody phlegm. She had another wound on the chin, and others on the right wrist and right hand, and in consequence of these wounds Shushan was in a most dangerous state. She was especially in danger 4 days previous to her death. On the 1st of June, after giving birth to a dead male child, she died. In my opinion the cause of her death was the wounds she had received.

Q. Did you hear anything of this matter from Minas?—A. When Minas was in prison I went to visit him at Dilman and saw him. I said, "What deed is this which you have committed?" He answered, "Satan put it into my mind."

DR. A. H. SAMUEL.

Question by court to Minas:

Q. What reply do you make to this evidence?—A. Yes, Dr. Samuel did see me in prison. He did not ask me any question, and I made no reply. He came and prayed with me and went away.

MINAS.

The witness withdraws.

Seventh witness. Deacon Zeah is called into court, and, having been solemnly affirmed by the Mustashar-ud-Douleh, is questioned as follows:

Q. Concerning this case, in which Minas is accused of killing Shushan, the wife of Mr. Wright, what evidence can you give?—A. I state that this Minas, now before the court, was a teacher in the service of Mr. Wright, that is to say, he taught the little boys. Until Minas had been 4 months at Oola I saw no weapon in his possession. After the 4 months he had always a six-chambered pistol and two daggers in his possession. One dagger he always wore, the second he kept in his house. I was at Huftawan in my own house on a Wednesday afternoon. I can not state the day of the month. Mr. Mechlin came to me and informed me that Minas had stabbed Shushan, the wife of Mr. Wright, and told me to send off a telegram for Dr. Cochran and tell him to come at once. After Minas was caught I accompanied Mr. Shedd to Dilman, and we went to see Minas. Minas hid his face on the ground. I said to him, "Mr. Shedd wishes to see you." He answered, "I have stabbed Shushan; my face is black before God and before you. Pray to God for me." I also on another occasion went to see Minas alone. His first question was, "How is the lady?" I answered, "Her wounds are all getting better except one wound." He answered and said, "I struck one deep wound." I said, "Where did you strike this wound?" He answered, "In her back." I said, "What enmity had you with the lady, or who instigated you to this deed?" He answered, "No one instigated me to this deed, but Satan entered my heart." I also asked Minas, "Had you this intention previously?" He answered, "No, not previously; only on the night of Wednesday I came to kill them both, that is, both Mr. and Mrs. Wright."

Q. You say you asked Minas "From what time did this purpose come into your mind?" and he answered, "From the night of Wednesday." Did this conversation take place at your first interview or your second?—A. At the second interview.

Q. What further evidence have you to give?—A. I heard from Asli, the maid-servant of Mrs. Wright, that Minas on Wednesday night came to kill both Shushan and Mr. Wright. She said, "I caught hold of Minas and would not allow him to approach them." When Minas was about to be taken from Dilman to Tabreez, at the house of Hadji Khan, the governor of Salmas, he said to me, "I am going to my death. This body of mine must be punished, but I beg you to pray that my soul may be saved."

Q. When you the first time went with Dr. Shedd, did you come out with Dr. Shedd or after him?—A. On that occasion we came out together. Mr. Shedd gave me two krans to give to Minas; I gave it to him.

ZEAH.

Question addressed to Minas by the court:

Q. What reply do you give to this evidence?—A. With regard to what the witness says about my having a pistol, he himself has a pistol, and so have the American gentlemen. Moreover, my house being far away and on the outskirts of Oola, it was more necessary for me to have a pistol; but I never wore it on my body except on a journey, and this is the custom of the American gentlemen. Besides this, all his evidence is untrue. As he is in the service of the Americans, he is frightened of them and is obliged to say those things. Also, I am an Armenian, while those witnesses are Assyrians. Because I was employed to teach in that village they looked askance at me, i. e., did not approve of me; they therefore tell these lies about me. Several times Zeah came to see me in prison; he wished to get evidence out of me. Some days ago he came to see me in prison here; the soldiers would not permit him to come in.

By the court:

Q. You say you are an Armenian; was your mother an Armenian or an Assyrian?—A. My mother was an Assyrian; but when she married my father, as my father, named Sayad, was of the Armenian sect, she also became an Armenian; but I myself belong to the sect of the Americans.

MINAS.

The witness withdraws.

Eighth witness. Minister Johanna is called in and duly affirmed by the Mustashard-Douleh.

Q. What is your evidence about the wife of Mr. Wright, who is said to have been stabbed by Minas?—A. When Minas was brought a prisoner from near Van, where he had been arrested, I went to see him at Dilman. It was a Sunday. I think it was somewhere about 10 days after Shushan received her wounds. I gave him salaam and said, "Give me your hand; how are you?" He answered, "I am not worthy to touch your hand. My face is black. I have committed a great sin. I stabbed the lady. Pray for me." I prayed for him.

By the court:

Q. Did you hear anything from Asli, the maidservant of Mrs. Wright, and what did she say?—A. Three days after Shushan, the wife of Mr. Wright, was stabbed Mr. Wright directed me to take the maidservant to Gavelan (Gavelan is on the road to the servant's home), as he had discharged her. I took the maidservant to my house, which was on our road, and questioned her both in my house and also on the road. She said to me: "Minas came into the room with a dagger in his hand and a pistol at his waist and wished to kill both Shushan and Mr. Wright. I prevented him doing this."

JOHANNA.

Question by the court to Minas:

Q. What answer do you give to this evidence?—A. I belong to Ooroomceeyah District, and this man also belongs to the same district. He has a son who teaches like me. Ever since I came and became a teacher in this school and commenced to teach the boys Johanna has been a covert enemy of mine. He is the religious instructor at Oola. He wished that in the schoolhouse where I taught his son should teach the boys, instead of me, and receive the pay. Several times he has spoken to the gentlemen and to Mr. Meehlin and to Shushan, and begged that his son should have my place. It appears that they did not consent to his proposal. From that time he has for this reason been behind my head and tells lies about me. Also, the confession he says he heard from me in the prison is an invention. I have also to say that Mr. Wright had a first wife, and Shushan was a servant in the service of some of the Americans. After the death of Mr. Wright's first wife he married Shushan. As Shushan was an Assyrian and these witnesses are also the same, they tell these stories against me. It is chiefly because these ministers (Assyrian understood) gave me much trouble that I went to Van to obtain learning. From the village of Charri to the village of Kusr, everyone, if asked, would state that I told them as I was passing that I was going for the purpose of learning. If I was running away, I would not have taken 11 days in going a road which could be passed over in 2 days.

Q. When you went to Van, did you obtain a passport (at the Turkish frontier, it is understood)?—A. Yes, I did.

Q. In what name did you obtain a passport?—A. I called myself Moses, the son of Joseph, and in that name I obtained a passport. It is a common thing for people to call themselves by another name.

MINAS.

The witness Johanna withdrew.

Ninth witness. Dr. Mary Bradford, of the American mission, is called into court and duly solemnly affirmed by the Mustashar-ud-Douleh.

By the court:

Q. State whatever evidence you have to give.—A. Mr. Wright telegraphed me to come. I started and reached Oola on the 31st of January. I found Mrs. Wright very dangerously ill from wounds, and the day after I reached Oola, it was a Sunday, Mrs. Wright gave birth to a dead male child, and in the afternoon of that day died.

Q. Did Mrs. Wright say anything to you as to who had wounded her, or did you ask her who had given her the wounds?—A. We did not speak on the subject.

Q. Will you state what, in your opinion, was the cause of Mrs. Wright's death?—A. The cause of death was the wounds she had received.

Q. What do you consider was the cause of the death of her child that was born dead?—A. The wounds received were the cause of this also.

MARY BRADFORD.

The witness withdraws.

The court rises for the day.

The court, constituted as before reassembled, at the Persian foreign office, at Tabreez, on Wednesday, the 2d of July, 1890, answering to the 14th of Zalkaada, 1307.

The English consul-general produces a letter written in Syriac characters and states: This letter was written by Minas, the prisoner, and given by him to Kerbelai pasha muleteer, to take to David, son of Mukdussie (Mukdussie means one who has visited Jerusalem) Sayad, inhabitant of the village of Kara Hussanlu, as pasha muleteer is an inhabitant of the same village, Kara Hussanlu, as David to whom the letter was written.

The muleteer pasha is here called into court. He states (pointing at Minas, the prisoner before the court): That man gave me this paper (the Syriac letter above mentioned was handed to him) at the village of Aga Disig below Alisha, and asked me to convey it to David, son of Mukdassie Sayad, inhabitant of my village of Kara Hussanlu. I took this letter, and, finding David not at home, I gave the letter to David's sister.

The letter was here handed to Minas and he was asked to read it. Minas answered: "The letters are much obliterated; I can not read it. I never saw this man in my life before, and I do not know him."

Translation of the Syriac letter.

This translation is made direct from the Syriac into English by Dr. Shedd. There is also a Persian translation by another hand attached. The original is with the court.

"Friend, beloved and honored brother, David of Kara Hussanlu. I have the hope in the Lord that your health is good, but if you ask in regard to me, although in body I am well, in spirit I am distressed, because I have committed a very bad deed. I am in need of your prayers. I hope you will remember me. I myself have not the hope in assurance of my life. My case remains in the hands of the Lord. My hope is in the Lord only, but I hope that the Lord will forgive my sins although my face is black. I hope the Lord will spare my life.

"May your wedding be blessed. It is the way of the world; such things happen, but in all these things my hope is in God."

The examination of the witnesses for the prosecution is completed, and the answers of Minas to each one also. The evidence is read over to each witness in presence of prisoner and signed by them, and the prisoner signs his own replies. This is completed on the 2d July, 1890, and the court rises.

The court, constituted as before, reassembled at the Persian foreign office at Tabreez on the 3d of July, answering to the 15th day of Zalkaada. Minas is brought before the court and questioned.

Q. How old are you?—A. I do not know. I have no written evidence, but my father and mother say I am at present between 15 and 17 years of age. I am certain I am not more than 17 years old.

Q. If you have anything further to state in your defense say so.—A. All the witnesses are in the service of the Americans and receive wages varying from 6 to 15 toman a month, and for the reason that they are servants they are obliged to say and do whatever the gentlemen tell them, and all they have said are inventions, and

Jalil and the other Mohammedans who have given false evidence against me have, I think, received money from the gentlemen and have got gain in this way. Another point I wish also to bring forward against the witnesses who say I confessed to them in the prison at Dilman: There were five prisoners in the prison besides myself; if I had made this confession the Mohammedans would also have heard. If these Mohammedans will come forward and say I made these confessions, then it will be correct.

Q. What would you say if those men were brought and said you did confess?—A. They may say that those witnesses came to me in prison and read the New Testament and prayed with me and I may have said yes to this. If I had confessed to the murder which they fasten on me, those five men in the prison would have been brought here to prove my confession.

Question by the English consul. Even if you have not confessed by word of mouth, you have confessed in writing in the letter given by you to pasha muletter.

Answer. I never wrote that letter; that is not my writing.

MINAS.

The proceedings are now sealed with his seal by the Mustashar-ud-Douleh, also sealed and signed by the English consul-general, and also sealed by Hadji Mirza Maasim Khan, first secretary of the Persian foreign office.

The court adjourns sine die.

[Inclosure 3 in No. 474.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, July 14, 1890.

SIR: I have now to acknowledge with many thanks your dispatch No. 28 of July 5, inclosing the minutes of the proceedings in the trial of the assassin Minas, in Persian, accompanied by an English translation of the same.

In view of the statements made to you by the Mustashar-ud-Douleh that the orders received at Tabreez were to the effect that the evidence against Minas, as well as his defense, was to be recorded there and the proceedings afterwards sent to Teheran for the authorities here to note the finding and sentence the prisoner in accordance, I have deemed it advisable to transmit a copy of your Persian version of the said proceedings to the prime minister, His Highness the Eminé Soultan, accompanied by a note stating that in my opinion the evidence adduced fully establishes the guilt of the prisoner Minas as to the charges preferred against him, and that it appeared to me most expedient that he be accordingly sentenced at the earliest moment, and executed at Tabreez, within the province where his crime was committed, and where the atonement therefor would best serve as an example to others.

His Highness the Eminé Soultan being however at present absent on a hunting expedition with His Majesty the Shah, it will doubtless take a number of days before I can receive his reply.

As to the woman Asli, I quite agree with you that under the circumstances it is best not to require her to testify, since there is every probability that she will not do so honestly.

Again assuring you of my sincere appreciation for all the trouble you have given yourself in this matter, I am, etc.,

E. SPENCER PRATT.

Mr. Adee to Mr. Pratt.

No. 226.]

DEPARTMENT OF STATE,
Washington, July 15, 1890.

SIR: I have to acknowledge the receipt of your Nos. 459 and 460 of the 3d and 4th ultimo, furnishing details of the assassination of Mrs. Wright, the wife of the American missionary at Salmas, by the Armenian Minas, a teacher in the mission school. The energetic efforts of Her Britannic Majesty's consul-general at Tabreez to secure the arrest of Minas, which resulted in his capture, are highly appreciated by this

Government, and, together with the courteous action of the British minister at Teheran in consenting to the trial of Minas before Her Majesty's consul-general at Tabreez, will form the subject of an instruction to Mr. Lincoln, minister of the United States at London. Approving your action,

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Moore to Mr. Pratt.

No. 227.]

DEPARTMENT OF STATE,
Washington, July 23, 1890.

SIR: I have to acknowledge the receipt of your Nos. 461 and 462 of the 12th and 14th of June last, in further reference to the trial of Minas, the Armenian assassin of Mrs. Wright.

The proposition to have the trial take place at Tabreez, the capital of the province in which the deed was committed, meets with approval.

Trusting that the authorities will have dealt so promptly and justly with the case as to remove all occasion for your visiting Tabreez, and commending the action which you have taken,

I am, etc.,

J. B. MOORE,
Acting Secretary.

Mr. Pratt to Mr. Blaine.

No. 479.]

LEGATION OF THE UNITED STATES,
Teheran, July 26, 1890. (Received September 12.)

SIR: Referring to my dispatch No. 474, of the 15th instant, I have the honor to report that the prime minister, His Highness the Eminé Soultan, in acknowledging the receipt of the minutes of the proceedings in the trial of the Armenian Minas for the assassination of Mrs. Wright, informed me that His Majesty the Shah had been led by the authorities at Tabreez to believe that the evidence against the accused was not sufficient to warrant his being executed, and had therefore ordered that he be imprisoned for life instead.

Thereupon I asked to see the Eminé Soultan immediately upon his return, and had an interview with him this afternoon.

On questioning him as to His Majesty's reasons for withholding the death sentence in the present case, His Highness informed me that it was done upon the recommendation of the Emir Nizam, the governor of Tabreez, and handed me a telegram from that official stating that since the charge of murder did not appear to him clearly proved against the prisoner, he would recommend his being condemned to imprisonment and not executed.

I then had laid before His Highness the report of the full proceedings of the trial, and, after we had carefully gone over it together, gave it as my opinion that the guilt of the accused was conclusively established by the evidence adduced, and that, although most adverse to the taking of human life for any cause, I could not see how, in the vindication of justice in the present instance, and as an example for the future, anything short of capital punishment would meet the exigencies of the occasion.

His Highness seemed much impressed by the argument I advanced, which he said he would repeat to the Shah and advocate his being guided by my views in the premises.

At this juncture I would respectfully request that you instruct me as to whether I am still further to press the matter of the execution of Mrs. Wright's murderer, in the event that the same is not decreed by His Majesty the Shah upon the representations made by me to the prime minister as here reported.

I have, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 482.]

LEGATION OF THE UNITED STATES,
Teheran, August 8, 1890. (Received September 15.)

SIR: I have the honor to report that, having advised Consul General Stewart, at Tabreez, of the facts communicated in my report No. 479 of the 26th ultimo, I have just received, in response from the consul-general, a dispatch and letter, with inclosures, the copies of which are herewith respectfully submitted for your consideration.

Since neither the alleged attempt to assault or intimidate Mr. Wright, nor the controversy about the house at Khoi in which Mr. Mechlin is involved, present any difficulties not apparently susceptible of solution here, I shall not stop to discuss these questions at present, but will pass at once to the case of Minas, the murderer of Mrs. Wright.

What Colonel Stewart says about the evil consequences to be apprehended if Minas is not sentenced to death for his barbarous crime fully coincides, you will observe, with the views that I have already expressed on this subject.

I question, however, the propriety of acting upon the suggestion advanced by the colonel in his private letter, to get Sir Henry Drummond Wolff, Her Britannic Majesty's minister at this court, to join me in a protest against the said criminal's nonexecution.

That the British minister would readily accede to such a request on my part I have little doubt.

Still, from long and careful study of the situation, I am forced to conclude that when the representative of a disinterested power here applies to the envoy of one of the powers directly concerned in Persia's politics to officially support in forcing any particular measure upon the Shah's Government, he incurs the risk of placing himself in the very embarrassing position of being called upon to reciprocate on some future occasion in a manner which may not accord with the policy of neutrality his own Government would desire him to pursue.

Hence, though there would seem to be no objection to asking Sir Henry Drummond Wolff's informal and friendly intercession in the present instance, if the case is one which in your opinion warrants an appeal for the joint official action, it would appear to me best that I should seek the coöperation not only of Sir Drummond, but also of the French minister, and, if circumstance made it desirable, of the minister of Russia as well.

At the same time, if you direct me to make a formal demand in the name of the Government of the United States for this criminal's execution, it is my belief that the said demand will be complied with.

I am now only awaiting your instructions in this matter, which, whatever they are, you may rest assured I shall faithfully obey.

The removal of the prisoner from Tabreez to Teheran for safe keeping I have already asked for.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 482.]

Colonel Stewart to Mr. Pratt.

BRITISH CONSULATE-GENERAL,
Tabreez, August 2, 1890.

SIR: I have the honor to acknowledge the receipt this day of Your Excellency's dispatch No. 17, dated July 26, and I am astonished to hear that the prisoner Minas has not been condemned to death.

It is perfectly ridiculous of the Persian authorities to say that the evidence is not complete and sufficient. One witness saw Minas commit the murder, a second saw him running away, and when he tried to stop him Minas threatened him with a revolver. Besides these, three other witnesses, one of these Dr. Shedd, gave evidence that Minas confessed the deed to them.

There can be no doubt that if Minas does not suffer death there will be a very grave miscarriage of justice and the position of Americans and Europeans in the outlying villages in Persia will be very precarious and their lives unsafe.

I have received two letters and telegrams from Mr. Mechlin and Mr. Wright complaining that a man believed to be a brother of Minas was in the village of Oola, where Mr. Wright resides, with four other men and wished to kill Mr. Wright. I at once got the Emir Nizam to telegraph to the governor of Salmas ordering him to arrest those people.

They have been driven away and have fled, it is believed, to Russian territory. They proved, however, not to be relations of Minas, but only, I understand, some bad characters bent on robbery, and Mr. Wright, whose nerves are rather unstrung by his wife's murder, which is not surprising, was told they were relatives of Minas and feared to leave his house. That matter has now been satisfactorily settled, and Mr. Wright is no longer alarmed.

It seems to me, for the protection of the citizens of the United States, that Minas should suffer death for a very cold-blooded murder committed without any provocation and which has been amply proved.

I hope you will not mind my suggesting that if you find it impossible to obtain justice in Teheran that the Government of the United States should be moved to demand justice. In the meantime I would ask, if there is to be much delay, that Minas be at least removed to Teheran, as, if he is not to suffer death as an example to others, he should not remain at Tabreez, where his presence is likely to have a bad effect.

I send you a letter from Mr. Mechlin about a house at Khoi. Within an hour of receiving Mr. Mechlin's letter I called on the Mustashar-ud-Donleh and spoke to him on the subject, and I hope to see the Emir Nizam in a day or two and get the matter settled, but I write you that you may know about the matter.

I do not think it will be necessary for you to take any steps at present, for I hope to be able to settle it.

I have, etc.,

C. E. STEWART,
Colonel, Her British Majesty's Consul-General, Tabreez.

[Inclosure]

Mr. Mechlin to Mr. Pratt.

Khoi, July 29, 1890.

SIR: I am now in Khoi (7 miles from Salmas) in business connection with a house we have rented there or here.

I have been to see the wali, or governor, and he has referred the whole matter to Tabreez to the emir. He gives me 20 days until his decision is granted, that is, from July 29, 1890.

I went to call on the wali this morning. He received me kindly, and we talked the matter over in a very friendly spirit. I asked the wali what are the charges the Armenians are bringing against me; he answered:

"First. That you have rented a house near their church for their helper.

"Second. That you are going to open a school in opposition to our (their) own school

"Third. That you are drawing away our (their) people."

To the first the wali said: "The people did not tell me that you had this place rented for several years previous to this; they said it was a new thing." The wali said, "I know you have the right to buy and rent, but in this case the people are opposed to you, and I must refer the matter to Tabreez."

I told him if they decided this against us our treaty was nothing, and we would not permit that to be. He assured me that he had no opposition to me, but, as the Armenians had referred the matter to Tabreez, he would do so also.

In brief, I will give you the history of the case. Some 2 or 3 weeks ago an Armenian teacher came from Van to teach the Armenian school in Khoi. Until he came there was no opposition whatever. All was quiet and pleasant. But he was afraid Baron Demettric, our Armenian teacher (and he is an excellent teacher), would draw away his boys, so he excites (or incites) the old priest to raise a storm about the house that we have rented for Demettric for 5 years, because we wanted to fix up a room for him and wanted the house certain for that time.

The opposition at first came to the woman who has the house and had rented to us and tried to frighten her so that she would not permit us to live here.

She reported this matter to the Russian consular agent (for she is a Russian citizen, and how can she rent or buy) against the Armenian teacher. The agent said, he is a Turkish citizen; and he referred the matter to the Turkish consular agent, who fined the teacher and told him to keep quiet. Since then the teacher denies that he was working in this matter, and that it was all the old priest's doings.

After this they wrote a letter to the Armenian bishop in Tabreez and told him of their trouble. They used deceit in getting signers. They would go to a man and say: "Are you a Turk or an Armenian? If you are an Armenian, sign this paper;" and so quite a number signed that paper who were opposed to this opposition, for they were deceived as to its contents.

Saturday morning last Shamasha Werda, our preacher here, was going to Khoi city (our work is outside the city walls), and he met three priests and a farash from the wali. They were going to serve an order on the woman who owns the house that she must not permit Shamasha Werda or Baron Demettric to live there. Shamasha Werda went at once to see the wali and said: "It is not my house, an American has rented it, and I can not give answer until I hear from him." The wali then gave him 5 days to hear from me, and he also recalled the order to the priest. Now he gives me 20 days in which to settle the matter. The parties working in this matter are, (1) the new Armenian teacher, (2) one or two Armenian merchants who are angry because we (of Oroomeevah and Salmas) have given our box business into the hands of our shamasha, or preacher, and have taken it away from them. They robbed us of lots of money, and so we took it from them. The woman wants our teacher to remain in her house. You know where the matter will lead if we must give up this house. The people of Salmas need only complain against us and they can drive us from our homes. This is a copy of my letter to Colonel Stewart on this matter, and I hope you will see that we get our rights. There are no charges against either Shamasha Werda or Baron Demettric before the wali.

Yours, etc.,

J. C. MECHLIN.

[Inclosure 2 in No. 482.]

Colonel Stewart to Mr. Pratt.

BRITISH CONSULATE-GENERAL,
Tabreez, August 3, 1890.

DEAR MR. PRATT: I think it will have a very bad effect if Minas is not executed. What the Eminé Soultan says, in the copy of the Persian letter you sent me, is not reasonable. Minas confessed to three different people having committed the murder, as appears in the proceedings.

Could you not get Sir H. Drummond Wolff to join you in a protest against the nonexecution of Minas?

It is a question that affects all Americans who live in this part of Persia.

I send you one of the letters I received from Mr. Wright calling upon me to protect him, as a specimen. I received even a stronger worded letter from Mr. Mechlin.

The matter has been satisfactorily settled, as the people concerned have fled; but I was obliged to send two telegrams about it, one from Emir Nizam to the governor of Salmas, as I could not, when urgently asked for help by Mr. Wright or Mr. Mechlin, think it was more or less of a false alarm, the people only having been thieves, unconnected with Minas, who had tried to get into Mr. Wright's house, but were prevented.

The Emir Nizam sent a strongly worded telegram immediately on my applying to him, directing the governor to protect Mr. Wright.

Yours, sincerely,

C. E. STEWART.

P. S.—I believe it is a mistake that any attempt was made to desecrate Mrs. Wright's grave, but will make inquiries.

C. E. S.

[Inclosure.]

Mr. Wright to Colonel Stewart.

OOLA, SALMAS, July 19, 1890.

DEAR SIR: As Mr. Mechlin has by special messenger sent word to you about the state of affairs here, I will only add that your telegram, or rather that of the Emir Nizam to the Naibi Hukaveat here, arrived yesterday, and to-day measures are being taken to effect the arrest of the would-be assassins.

Thursday and Friday nights (the past two nights) they have made no attempt to reach my house. My guard fired on them Wednesday night, and I gave out word, which they have heard, that anyone who attempts to scale my yard walls will be shot down. This I was compelled to do, as neither the governor, Shiek il Islam, nor the villagers here would help in the matter of their restraint or capture.

Since that they have heard of the telegrams Mr. Mechlin sent to you and are getting afraid apparently. I keep inside my yard all the time as yet, for fear some of them might be lying in ambush. They were seen on Thursday last at Inalham. If they elude arrest here, the governor of Oroomeeyah, I think, should be requested to secure them, punish them for their attempts on my life and for their attempt to desecrate my wife's grave, and take from them heavy bonds to keep the peace on pain of death and confiscation of their property. You will, of course, know how to do this better than I can request. The above plan is only intended as a suggestion. The parties in Tabreez should give bond there, should they not, lest they, on their way to Oroomeeyah make an attack on me or on Mrs. Wright's grave at Gavelan?

I thank you heartily for the prompt telegram you had the emir send. It was quite what was needed. The governor is mixed up in another murder case. The Kurds carried off the flocks of a village called Chichack and killed one man and wounded a number of others; he has been engaged in capturing them, and just now word comes that the flocks have been found in Somai and the thieves (or four of them) arrested. He will now, I trust, have no excuse for neglecting the capture of Minas's friends. By the way, the sooner Minas's case is ended and he receives his punishment the sooner, in my opinion, will things quiet down. Many here think the object of his brother now is to so frighten me that I shall request Minas's pardon. While I hardly think this is the case, yet I feel sure that the longer Minas's case hangs on hand the more danger there is to all concerned. The general belief in Salmas seems to be that the trial went against us, and this emboldens those who threaten our lives on account of that garden to be bold and outspoken in their threats. It does seem as though God for some reason had unloosed Satan in Salmas this year. During the previous 4 years I was here there were not as many murders as during the present 6 months.

With many thanks, etc.,

J. N. WRIGHT.

Mr. Pratt to Mr. Blaine.

No. 483.]

LEGATION OF THE UNITED STATES,
Teheran, August 9, 1890. (Received September 20.)

SIR: Not having been able in the press of business to get the same ready for transmission by last mail, I now have the honor to submit to you, with the hope that their contents will meet with your approval, the

duplicates of my answers to the communications from Consul-General Stewart, the copies of which were contained in my dispatch No. 482 of the 8th instant.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 483.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, August 8, 1890.

SIR: I have received your dispatch No. 42 of the 2d instant in acknowledgment of my No. 17 of the 26th ultimo.

Your views as to the fact of the guilt of Minas, the accused in the case of the assassination of Mrs. Wright, having been conclusively established by the evidence adduced, I entirely concur in, and realize as fully as you do the evil that must result if the perpetrator of so heinous a crime is not capitally punished.

This I have strongly impressed upon the Government here with the hope that it would induce the Shah to reconsider his present decision and yet decree the sentence of death, which alone can vindicate justice in the present instance. I can not make a formal demand for the execution of the accused without instructions to that effect from my Government, and such instructions I can not expect to receive until my report and opinion of the case, duly transmitted, shall have reached Washington and been there passed upon by the honorable Secretary of State.

In the meantime I have written the prime minister, His Highness the Eminé Soultan, who is again absent with the Shah, asking that the prisoner Minas be transferred from Tabreez to Teheran for safe-keeping.

If you learn that there is really any organized conspiracy against the safety of Mr. Wright for the suppression of which the authorities at Tabreez are unable or unwilling to adopt the necessary measures, I beg that you will advise me by telegraph, so that I can take the matter in hand here at once.

I am, etc.,

E. SPENCER PRATT.

[Inclosure 2 in No. 483.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, August 8, 1890.

SIR: With reference to the closing paragraph of your dispatch No. 42 of the 2d instant, concerning the difficulty about the house at Khoi, treated of in the letter you inclosed me from Mr. J. C. Mechlin, I have to express to you my thanks for bringing the matter in dispute so promptly to the attention of the authorities at Tabreez, and trust that you will be able to satisfactorily arrange the affair with the Emir Nizam, on the spot, without having to refer it here for settlement.

I am, etc.,

E. SPENCER PRATT.

[Inclosure 3 in No. 483.]

Mr. Pratt to Colonel Stewart.

LEGATION OF THE UNITED STATES,
Teheran, August 8, 1890.

DEAR COLONEL STEWART: Your letter of the 3d instant is at hand. That it will have a very bad effect if Minas is not executed I have no doubt.

Of this fact I think the Eminé Soultan became pretty thoroughly convinced by the argument I advanced during the interview we had together on the 26th ultimo. What effect the said argument has had upon the Shah, to whom it was to be communicated, I have not yet learned, as His Majesty is again off to the mountains, where he has been followed by the Emir. I have written the latter asking that Minas, whose

presence was producing a bad influence in Tabreez, be transferred to Teheran to await final decision in his case.

I note your suggestion about getting Sir H. Drummond Wolff to join me in a protest against the nonexecution of Minas, but feel that a like step should not be taken without the sanction of the honorable Secretary of State, who may not deem this an occasion for joint action and decide that such representations as the Government of the United States shall have to make in the premises should be directly communicated through me to the Shah or his Government.

The letter you inclosed from Mr. Wright I have carefully read, and though, from your subsequent inquiries into the matter of the alleged attempt to assault Mr. Wright's person and desecrate the grave of his wife, it would appear that his fears were not altogether well founded, every allowance is to be made for the state in which the assassination of Mrs. Wright has left his nervous system. At the same time I can but thank you for your promptness in requiring the transmission of the orders which the urgency of the case seemed at the time to demand.

Unless you think it may react injuriously upon our missionaries in your district, and that the local authorities are able and willing to extend them proper protection, I will, on the Shah's return, ask that such explicit instructions be sent from here as shall bring the delinquent officials to realize that they can not neglect their duties with impunity.

Concerning the controversy about the house at Khoi, treated of in Mr. Mecklin's letter, I beg to refer you to my dispatch No. 21 of to-day and to again express the hope that your efforts to arrange this matter directly with the Emir Nizam may prove successful.

Sincerely yours,

E. SPENCER PRATT.

Mr. Wharton to Mr. Pratt.

No. 229.]

DEPARTMENT OF STATE,
Washington, August 25, 1890.

SIR: I have received your No. 474 of the 15th ultimo, inclosing copy of a dispatch from the British consul-general at Tabreez, reporting the trial of the assassin of Mrs. Wright.

The Department again desires to express its appreciation of the efficient attention given to the case by Consul-General Stewart.

I am, etc.,

WILLIAM F. WHARTON.

Mr. Pratt to Mr. Blaine.

No. 487.]

LEGATION OF THE UNITED STATES,
Teheran, August 26, 1890. (Received October 4.)

I have, etc.,

SIR: Referring to my dispatch No. 482 of the 8th instant, I have the honor to report that the prime minister, His Highness the Eminé Sultán, has acceded to the request I made to have the prisoner Minas transferred from Tabreez to Teheran for safe-keeping, and that the orders for the said transfer have been received by the authorities at Tabreez, who assure Consul-General Stewart that they shall be duly carried out.

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 490.]

LEGATION OF THE UNITED STATES,
Teheran, September 18, 1890. (Received October 19.)

SIR: Referring to my dispatches Nos. 482 and 487 of the 8th and 26th ultimo, respectively, I have the honor to report that I have now received from the prime minister, His Highness the Eminé Soultan, official notification of the arrival in Teheran of the prisoner Minas and of his incarceration.

Though desirous of availing myself at the earliest moment of the leave of absence you had so kindly granted me, I have not felt at liberty to take my departure until after Minas should have reached here and been safely delivered over to the custody of the authorities at this capital.

I have, etc.,

E. SPENCER PRATT.

Mr. Wharton to Mr. Pratt.

No. 233.]

DEPARTMENT OF STATE,
Washington, September 19, 1890.

SIR: I have before me your dispatches Nos. 479 and 482 of July 26 and August 8 last, in the case of Minas, the assassin of Mrs. Wright; also a letter from John Gillespie, representing the Board of Foreign Missions of the Presbyterian Church in the United States, requesting this Department to take such action as will, if possible, secure imposition of an adequate punishment in this case. I inclose a copy. You will see by its terms that the Board of Missions entertains the same apprehensions which are so strongly felt by the efficient British consul-general at Tabreez, that leniency in this well-proved case of deliberate murder would be fraught with extreme danger to the lives both of Americans and European residents in the outlying villages of Persia.

You call attention to the suggestion of Colonel Stewart that a joint demand should be made by yourself and Her Britannic Majesty's minister at Teheran for the execution of Minas, and this Department approves your conclusion not to ask assistance in the case as it now stands. You add:

At the same time, if you direct me to make a formal demand in the name of the Government of the United States for this criminal's execution, it is my belief that the said demand will be complied with.

While it is believed that the evidence against Minas is of the most indubitable character, and that, therefore, no sentence of mere imprisonment would prove adequate punishment under the methods prevailing too often where this form is followed, and while it is believed that the natural result of the infliction of a mere sentence of imprisonment in this case would be still further crimes against both Americans and Europeans in that quarter, and thereby involve His Majesty's Government in additional perplexities, nevertheless, the high respect which the Government of the United States entertains for His Majesty and His Majesty's Government, and its confidence that, on a full consideration of the case in all its aspects, His Majesty's Government will deal wisely and courageously with this criminal, cause the Government of the United States to refrain from making the formal demand suggested; nor is such a demand altogether consonant with the usual course of this Government in such cases.

It is to be assumed without argument that the Government of His Majesty the Shah has a paramount concern in so administering justice as to command the respect of all, and that this consideration will be his guide.

In communicating the substance of these views to His Majesty's Government it might emphasize the statement to make prominent the well-grounded apprehensions of the most respected and well-considered foreign residents, of whatever nationality, which have been alluded to.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure in No. 233.]

Mr. Gillespie to Mr. Blaine.

NEW YORK, *September, 16, 1890.* (Received September 18.)

SIR: The State Department has doubtless been informed by Hon. E. Spencer Pratt, United States minister to the court of the Shah of Persia, of the murderous assault upon Mrs. J. N. Wright, the wife of one of the missionaries of the Board of Foreign Missions of the Presbyterian Church in the United States of America, on May 14, 1890. The injuries inflicted resulted in the death of Mrs. Wright on June 1. The murderer was a young Armenian named Minas. Only through the efficient aid of Colonel Stewart, English consul at Tabreez, and the efforts of our own United States minister, was the young man finally arrested and placed on trial. The evidence of the prisoner's guilt was regarded by these officials as beyond all question.

We have just learned, however, from letters written by Mr. Wright and Rev. J. C. Mechlin, another of our missionaries, that the Shah did not regard the evidence as sufficient to justify the execution of the murderer, and so has sentenced him to imprisonment for life. Such a sentence, we are assured by our missionaries, some of whom have been in Persia for many years, is regarded by the natives as very light, the person so imprisoned usually managing to get released after a brief imprisonment. For this reason, the missionaries are apprehensive lest the inadequate punishment inflicted may encourage similar assaults on slight provocation.

George W. Holmes, M. D., for 15 years our medical missionary in Tabreez, and for the last 3 of those years physician to the Vali Ahd, the Persian crown prince, and who is at present in this country, is of opinion that, unless the usual sentence for such a crime be inflicted, the lives of our missionaries can scarcely be regarded as secure. It is true Mrs. Wright was a Nestorian lady, but she was, nevertheless, the wife of an American citizen.

We beg you not to misunderstand the motive which urges us to press this case on your attention. Far be it from the Board of Foreign Missions or any of its officers to seek the execution of a poor deluded creature, even though he deliberately murdered a noble wife and mother. We simply ask, in behalf of our missionaries in Persia, who are themselves American citizens, that the ends of justice be not defeated, lest the lives of those who remain may be jeopardized.

We understand that Minister Pratt is using his influence to have the case reconsidered and adequate sentence pronounced. We venture, however, to suggest that if the State Department in Washington can reinforce Mr. Pratt's efforts in this direction it may do much towards securing the desired end.

In behalf of the Board of Foreign Missions,

JNO. GILLESPIE,
Secretary.

PERU.

Mr. Hicks to Mr. Blaine.

No. 70.]

LEGATION OF THE UNITED STATES,
Lima, January 14, 1890. (Received February 3.)

SIR: This legation is frequently visited by men of European birth who have resided in the United States, where they have declared their intention of becoming citizens, but who have never completed their naturalization.

These men are in a state which naturally excites their apprehension, having renounced on oath all allegiance to their native land and not having completed the formalities which entitle them to be classed as full citizens of the land of their adoption.

Unless the Government of the United States can extend some protection, they feel that they are emphatically "without a country." While they are manifestly not full citizens in the purview of the statutes, it seems to me that they are deserving of some attention as Americans. In the case of one who appealed for protection to this legation, I have drawn up a certificate stating the facts in his case and recommending him to such protection as he is entitled. While the instructions and regulations seem to discourage anything of the kind, I do not see that they positively prohibit it. I inclose herewith a copy of the certificate, which has not been issued, and await Department's instructions on the subject.

I will add that, as appears from innumerable "certificates of citizenship" in the hands of foreign-born residents in Peru, it was the custom of my predecessor in this legation during the war between Chile and Peru to issue "protection" of this kind to all who applied for it.

I have, etc.,

JOHN HICKS.

[Inclosure in No. 70.]

LEGATION OF THE UNITED STATES, *Lima, Peru.*

To whom it may concern :

This is to certify that William Gylling, late of the county of Pima, Territory of Arizona, has exhibited to me the certificate of the district court of the first judicial district of the Territory of Arizona, county of Pima, Territory of Arizona, aforesaid, signed by George A. Chase, esquire, clerk of said court, and attested by the seal thereof, showing that on the 3d day of February, 1881, the said William Gylling declared his intentions to become a citizen of the United States of America and to renounce forever all allegiance and fidelity to all and any foreign prince, potentate, state, and sovereignty whatsoever, and particularly to the King of Sweden.

Now, therefore, I call upon all to whom these presents may come to accord to said William Gylling the protection and safety to which he may be entitled under the laws of the United States of America.

Done at the legation of the United States in Lima, Peru, this — day of —
A. D., 1890.

Mr. Blaine to Mr. Hicks.

No. 38.]

DEPARTMENT OF STATE,
Washington, February 26, 1890.

SIR: I have to acknowledge the receipt of your No. 70 of January 14 last, in which you inclose a copy of a certificate of protection which you have drawn with a view to its issuance to one William Gylling, a Swedish subject who, in 1881, declared his intention to become a citizen of the United States, but never took the subsequent steps necessary for admission to citizenship.

A comparison of the certificate with your dispatch will disclose a misapprehension in regard to the effect of Mr. Gylling's declaration of intention. It is correctly recited in the certificate that Mr. Gylling "declared his intention to become a citizen of the United States of America and to renounce forever all allegiance and fidelity to all and any foreign prince, potentate," etc.

In your dispatch you say:

These men [of the class of Mr. Gylling] are in a state which naturally excites their apprehension, having renounced on oath all allegiance to their native land and not having completed the formalities which entitle them to be classed as full citizens of the land of their adoption.

This statement embodies a very prevalent misapprehension in regard to the effect of a declaration of intention. That act, as its description indicates, is merely expressive of a purpose and does not have the effect either of naturalization or of expatriation. In the case of Mr. Gylling the case is made doubly clear by the treaty of naturalization between the United States and Sweden and Norway of May 26, 1869. By the first article of that treaty it is expressly provided that "the declaration of an intention to become a citizen of the one or the other country has not for either party the effect of citizenship legally acquired."

This clause follows the provision in the same article that change of allegiance shall be effected by a 5 years' residence and naturalization.

The Department is therefore of opinion that the certificate should not be issued to Mr. Gylling.

I am, etc.,

JAMES G. BLAINE.

Mr. Hicks to Mr. Blaine.

No. 104.]

LEGATION OF THE UNITED STATES,
Lima, March 24, 1890. (Received April 25.)

SIR: I acknowledge receipt of Department's No. 38 of February 26, 1890, in regard to the case of William Gylling, a Swedish immigrant who, in 1881, declared his intention to become a citizen of the United States, but who never completed the formalities necessary to citizenship, and who now seeks the protection of this legation.

I will notify Mr. Gylling of the Department's decision in his case, that he is not entitled to protection as an American citizen.

I am still of the belief, however, that, if it is not positively prohibited by law, it would be good policy to extend some sort of protection to this class of people. There is a large number in Lima alone, and in the disturbed condition of these countries they naturally look to the American legation for a recognition of their citizenship. While it is true theoretically that they are still citizens to all intents and purposes of the land

which gave them birth, yet they cherish among the most valuable of their earthly possessions the creased and faded piece of paper which testifies to the fact that they have initiated the process whose consummation will make them legal citizens. And if the American Government refuses any recognition of their status, they feel that the oath by which they renounced all allegiance to their native land forever cuts them off from any relief from that source, and thus they are expatriated from both the old and the new.

Perhaps it is impracticable to extend even a quasi recognition of these men which would apply as against any nation except the one which they have abandoned, but, if such action is practicable, I am sure that it would afford satisfaction to a large class.

I have, etc.,

JOHN HICKS.

Mr. Blaine to Mr. Hicks.

No. 51.]

DEPARTMENT OF STATE,
Washington, May 8, 1890.

SIR: Your dispatch No. 104 of March 24 last has been received. You therein refer to the case of William Gylling, heretofore the subject of correspondence. While acting in pursuance of the Department's decision (No. 38, February 26, 1890) that Mr. Gylling is not a citizen of the United States, you renew your suggestion that some sort of protection should, if not positively prohibited by law, be extended to the class of people to which Mr. Gylling belongs, and of which you say there is a large number in Lima alone. It is observed that in the course of your remarks you recur to the view heretofore expressed by you that the oath taken by aliens who declare their intention to become citizens of the United States is an act "by which they renounce all allegiance to their native land forever."

In regard to this, the Department has only to repeat what was stated in its No. 38, namely, that the declaration of intention is not a renunciation of, but merely the expression of a purpose to renounce, the declarant's original allegiance. The actual renunciation is not effected until the applicant is subsequently admitted to citizenship. (Sec. 2165, Rev. Stats., second paragraph.)

The naturalization laws of the United States are framed upon the theory that there is some connection between residence in a country and the acquisition of a right to its protection. Hence they provide a probationary period during which the applicant, by residence in the land of intended adoption, by acquiring interests therein, by good moral conduct, and by familiarizing himself with, and attaching himself to, its constitutional methods, shall fit himself for a faithful and loyal assumption of the duties of citizenship, and thus, as a member of our free society, support the Government whose protection is in return extended to him. Accordingly, it is required that he shall first make a declaration of intention to become a citizen and afterwards undergo a probation, not only to prepare him for naturalization, but also to test the quality and steadfastness of his purpose before his admission to citizenship.

The object of the law was to make citizenship a substantial thing, and to require the performance of acts indicative of true faith and allegiance as the condition of its acquisition. The law is so clear on

this subject that there does not appear to be room for controversy. And, in further execution of this purpose, it is provided that passports shall not be granted or issued to, or verified for, any other persons than citizens of the United States (Rev. Stats., sec. 4076). It is not easy to discover, therefore, the grounds upon which the privileges of citizenship can be claimed by persons who are not citizens. The conditions of the acquisition of citizenship being clearly stated in the law, the reason by which a person can claim the right of citizenship when he has deliberately omitted to perform the conditions is by no means apparent. Nor is it less difficult to perceive upon what theory a government can be held bound to protect persons who are not only not its citizens, but who have not exhibited a willingness to live long enough within its jurisdiction to acquire its citizenship. Where a person after making a declaration of intention, instead of remaining in the United States and becoming duly naturalized, abandons the country and remains abroad, it must be inferred that he has also abandoned his intention. Take, for example, the case of Gylling, out of which the present correspondence has grown. The precise duration of his residence in the United States is not known, but it was evidently short. He made his declaration of intention in 1881, and not long afterwards appears to have left the United States. Almost twice the probationary period required for admission to citizenship after the date of first arrival in the United States has elapsed since he made his declaration; but he has never performed the conditions of naturalization, and consequently has never been admitted as a citizen. Indeed, by going and remaining abroad he continuously disables himself from fulfilling those conditions. To say that such a person is entitled to the protection of the United States is merely to set aside the statutes and discard citizenship altogether as a test of the right to claim protection. Those who refuse to attach themselves to the United States can not complain if this Government does not consider itself bound to exert its power in their behalf. Professions of allegiance, however ardent, have, it is proper to say, little weight where the conduct of the individual refutes them. The Department is at a loss to understand why persons in the position of Mr. Gylling "naturally look," as you observe, "to the American legation for a recognition of their citizenship," when the piece of paper they carry discloses that they are not American citizens and their conduct shows that they are not endeavoring to become such.

It is not deemed necessary to enter into the discussion of questions of domicile, or of the rights which may pertain to that status. The present observations are confined to the general class to which your dispatch relates.

I am, etc.,

JAMES G. BLAINE.

RUSSIA.

Mr. Smith to Mr. Blaine.

No. 12.]

LEGATION OF THE UNITED STATES,
St. Petersburg, June 17, 1890. (Received June 30.)

SIR: The Fourth International Penitentiary Congress was formally opened in this city on Sunday, the 15th instant, with imposing ceremonial and with every evidence of public and official interest. Some introductory and preliminary proceedings had marked the preceding days. On Friday, the 13th instant, such of the delegates as had already arrived, together with the members of the International Penitentiary Commission, assembled in the chamber of the municipal council at the city hall, when a cordial welcome to the city was extended to them by Mr. Likhatcheff, the mayor of St. Petersburg, and where other brief addresses of felicitation followed. On Saturday, the 14th, at the palace of the Prince of Oldenburg, the honorary president of the congress, the delegates were presented to His Highness and to the Princess Eugenie. Subsequently they left cards for Mr. de Giers, the imperial minister of foreign affairs, who was absent in Finland, and then proceeded to the ministry of the interior, where they were presented to the minister, who addressed them in words of welcome and encouragement.

The ceremonious inauguration of the congress on Sunday in the stately hall of the assembly of the nobility was distinguished by the most signal marks that could impart dignity and importance to the occasion. The Emperor and Empress gave it the honor and sanction of their personal presence, accompanied by the Queen of the Hellenes and all the members of the imperial family. The ministers of the Empire and the members of the diplomatic corps, together with other high dignitaries and invited persons, were also in attendance. The countenance of this brilliant and imposing assemblage lent more than ordinary éclat to the auspicious opening of the sessions. While the surroundings were of this notable character, the proceedings themselves were marked by the utmost simplicity. They began with the inaugural address of the Prince of Oldenburg, as honorary president, which repeated the welcome of Russia to the delegates and referred briefly and in general terms to the objects and work of the congress. This address was followed by a spirited response in the name of the delegates from Mr. Herbette, the head of the French delegation. Mr. Herbette closed with a graceful expression of acknowledgments to the Emperor, whereupon the whole assembly rose and greeted His Majesty with acclamations.

This terminated the formal proceedings. Immediately afterwards the delegates were individually presented to the Emperor and Empress, who briefly conversed with each. Upon the conclusion of this ceremony, the whole company proceeded to the Manège Michel, at some distance, where the International Penitentiary Exposition organized in connection with the congress was opened. The Emperor and Empress led the

way through the several corridors and spent more than an hour in examining the various displays. The exposition embraces exhibits from countries as remote as Japan on the one hand and the Argentine Republic on the other. The only leading nations not represented in it are the United States and Great Britain; and the delegates of the United States were made aware of expressions of regret from various sources that our country had no share in the creditable display.

Some of the exhibits are of a most interesting and instructive character. They include models of prisons, illustrations of methods of administration, and specimens of the handiwork of prisoners. Naturally the exhibit of Russia is the most extensive, and its most striking feature is a representation of the prisons in Siberia to which the exiles are deported and of the mines wherein they work. The exposition as a whole makes the impression of being fairly complete and successful.

The inspection of the exposition ended when the Emperor and Empress withdrew, and the proceedings of the day closed with a public address in the evening on John Howard by Mr. Spassowitch, a Russian professor of law, followed by a general reception given by the mayor of St. Petersburg at the city hall.

The regular work of the congress began on Monday, when it was organized by the choice of Mr. Galkine-Wraskoy, director of the prison system of Russia, as president, and when it divided itself into three sections; the first, on penal legislation; the second, on penitentiary institutions; the third, on preventive or correctional institutions, which proceeded at once to consider and discuss the papers and questions submitted to them respectively.

It may be remarked that the presence of the Emperor at the opening of the congress and his extended examination of the exposition created a most favorable impression. It was interpreted as evincing his interest in the subject of prison administration and in the work of the congress. Nothing was wanting to emphasize this suggestion. It is rare that any public occasion brings together so large a representation of the imperial family as was present at this ceremonial, and if it was intended to signify the sympathy of the Imperial Government with the declared aims of the congress, the design was successful.

The minister and the secretary of this legation attended the opening of the congress on the 15th as the representatives of the United States. The Hon. C. D. Randall, whose appointment as associate delegate was announced in your instruction No. 15, reported on the morning of the 16th, and all of the delegates of the United States were present at the organization of the congress.

I have, etc.,

CHAS. EMORY SMITH.

Mr. Smith to Mr. Blaine.

No. 17.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 3, 1890. (Received July 21.)

SIR: After a session of 9 days, the Fourth International Penitentiary Congress closed its regular work on Tuesday, the 24th ultimo, amid many mutual congratulations and expressions of good will. The conclusion of its formal labors was followed, upon the invitation of the Russian authorities, by an excursion of 3 days to Finland and another of 4 days to Moscow. Mr. Randall participated in the former, and all of the American delegates in the latter, which ended yesterday.

The session of the congress is generally regarded as quite successful. In the fullness of its deliberations, in the practical character of its discussions, in the opportunity for a comparison of experience and progress in prison management, and in the substantial unanimity of its conclusions, it realized the best expectations. Most of the delegates were men directly associated with penitentiary administration in the various countries, who brought the training and knowledge of experts to the consideration of the several questions embraced in the programme. It is not my province to make a detailed review or summary of the discussions and conclusions of the congress. That survey will be made by Mr. Randall in the report which, as the expert delegate, he will present to the Bureau of Education. But there were some features of the congress which will be of interest to the Department of State, and to which I may properly refer.

In the first place, there was no discussion of the internal system or methods peculiar to any particular country and no reference to any such subject. The questions submitted for the consideration of the congress were, under the usual practice, determined by the International Penitentiary Commission, which is a permanent body and which constituted the commission of organization; they were enumerated and defined in the proposed programme, which marked the scope and limits of the congress. The papers on the different topics which were the main theses of discussion were furnished and printed in advance, and the deliberations did not go outside of the proposed outline. There was no suggestion in any quarter of any attempt to invade the domain of policy or of administrative discipline, which each government must reserve for itself. Whether the penal system in any country has phases which are open to criticism, or whether, irrespective of its general principle, there are faults in its practical application, were matters outside of the functions of the congress.

Even upon those questions which were treated as coming within the proper province of the congress it was recognized that the conclusions must be affected by the conditions existing within the different countries and that those conditions must be respected. This was true, for instance, as to the application of the contract system to prison labor, and as to the question whether prison labor should be directed to objects which would not involve competition with the free labor of surrounding communities. Among the questions considered were the character and requirements of legislation with reference to juvenile delinquents, the organization of instruction in penitentiary science, the principle and manner of suspending or discontinuing punishment involving conditional sentence, the treatment of incorrigible criminals, the method of dealing with intoxication and offenses growing out of it, the nature and variety of work to be adopted in prisons, the modes of assisting discharged prisoners and their families, the relation of charitable bodies, the correctional and reform systems, and the whole subject of preventive measures. Upon many of these questions the practical discussions, with the information and comparisons which they elicited, were of more value than the formal conclusions.

The declaration of the congress upon the subject of extradition may have special interest for the Department, and I append to this dispatch (inclosure 1) the text of the question as submitted and of the conclusions adopted, together with translations of the same. It will be seen that, while the congress sanctions and supports the general principle of extradition, with all the reserve which each state must exercise for itself, it recognizes the difficulty of a uniform definition of crimes

subject to extradition growing out of the differences of penal legislation; that, with a view to the advancement of a general agreement, it recommends the special enumeration in international conventions of offenses to which extradition will not be accorded, instead of the enumeration of those which are subject to extradition; and that it urges efforts towards a common agreement among writers on criminal law to the end of giving the same name and definition to violations of the law which should be subject to extradition.

The growing interest in questions of prison administration, science, and reform will be indicated by certain comparative statistics of the several successive congresses at London, Stockholm, Rome, and St. Petersburg, which, as taken from the bulletin of the congress, I inclose, marked 2.

During the course of the congress Mr. Randall, as the expert delegate from the United States, took occasion to make some statements as to the progress of penitentiary and penal studies in our country, and, incidentally, as to its friendly attitude towards Russia. He expressed the sentiment of the United States towards the congress and its work, and explained why our prisons and correctional institutions were not represented in the exposition, which was chiefly due to the great distance. He remarked that the delegates of the United States were specially gratified that this congress had assembled at St. Petersburg, since the United States and Russia had always been bound together in the closest ties of friendship. Russia had attested her good will at a crisis when our national existence was at stake, and we could never forget her aid, for its memory was deeply engraved in our hearts. Mr. Randall added that the progress which Russia had made in penal science was known and appreciated in America. He referred briefly to the contributions which the United States had made to penitentiary reform and to the influential part which an American citizen, the lamented Dr. Wines, had borne in the original organization of the International Penitentiary Congress. He concluded by expressing the congratulations and good wishes of the American Government and people for the success of the congress. The paper of Mr. Randall, and especially the references to the friendly relations of the United States and Russia, were received with emphatic marks of approval.

It was decided that the next congress should be held in Paris.

It only remains to add that the Russian Government and the municipalities of St. Petersburg and Moscow did everything possible for the comfort and pleasure of the delegates, and that their hospitality was as hearty as it was lavish and unstinted. By command of the Emperor the congress was entertained at a sumptuous dinner at the Winter Palace, and numerous other banquets testified to the cordial welcome and kindness of our Russian hosts.

I have, etc.,

CHAS. EMORY SMITH.

[Inclosure 1 in No. 17.—Translation.]

The first question on the programme of the first or legislative section was the following:

By what proceedings and in what manner is it possible to bring about for the different countries a common name and a precise definition of the infractions of the penal law which should appear in the acts or the treaties of extradition?

Mr. Spassovitch was designated to present the report upon this question to the general assembly of the congress, a report which embraced the following conclusions:

(1) That treaties of extradition being in close dependence upon the special penal legislation of the different countries, and this legislation being as yet irreducible to

any single form whatever, it would be useless to undertake now to introduce into international conventions uniform definitions of unlawful acts, for the definition of these acts can not be identical.

(2) That it is desirable that special penal legislation should adopt the principle of extradition as the general rule, with all the reserve by which each state finds it necessary to restrict it.

(3) That the exception tending to become the rule, if extradition were adopted in principle in special legislation, international conventions upon extradition might change the proceedings, and in place of the enumeration of unlawful acts subject to extradition they might contain the enumeration of unlawful acts to which extradition will not be accorded.

Mr. Reynaud, for himself and some of his colleagues of the first section, presented the following separate conclusion: The congress expresses the judgment that a study should be made of a common agreement between the writers on criminal law of various countries to the end of giving the same name and a precise definition to infractions of the penal law which should be the object of extradition.

The three conclusions reported by Mr. Spassovitch were adopted, and the proposition of Mr. Reynaud was adopted as an additional conclusion.

[Inclosure 2 in No. 17.—Translation.]

Statistics of the International Penitentiary Congress.

	Congress of—			
	London, 1872.	Stock- holm, 1878.	Rome, 1885.	St. Peters- burg, 1890.
Total of members inscribed.....	341	297	284	740
Of the countries which entertained the congress.....	192	165	141	563
States represented.....	24	26	25	26
Official delegates.....	76	45	48	69
Questions inscribed on the programme—				
Of the first section (penal law).....	10	4	6	8
Of the second section (penitentiary).....	13	8	8	11
Of the third section (preventive means).....	5	4	8	6
Total.....	28	14	22	25
Number of preparatory works (reports presented upon the questions on the programme):				
First section.....	9	11	25	46
Second section.....	8	21	24	57
Third section.....	4	17	18	36
Total.....	16	49	67	139
Questions upon which the congress has indicated a solution:				
First section.....	2	4	5	7
Second section.....	8	6	5	11
Third section.....	5	4	7	6
Total.....	15	14	17	24

Mr. Smith to Mr. Blaine.

No. 44.]

LEGATION OF THE UNITED STATES,
St. Petersburg, September 25, 1890. (Received October 14.)

SIR: You have been advised by previous dispatches from this legation that the published rumors of new proscription measures, or the revival and oppressive application of old and obsolete edicts, against the Hebrew residents and subjects of the Russian Empire are declared by the Russian Government to be entirely groundless. Notwithstanding the authoritative denial of these reports, they still crop up from time to time, and are persistently repeated with a degree of circumstance

well calculated to create the impression that they have some foundation of fact. This continued imputation of purpose and acts, to which, if really entertained or executed, we could not be indifferent, renders it proper that I should apprise you of some further evidence on the subject.

The statement recently appeared in the columns of the London Times that, despite the disavowal of the Russian Government, some five or six hundred Hebrew families residing at Odessa had been summarily notified that they must immediately abandon their homes and, in fact, that they had already been expelled from the country. It has come to my knowledge that, in view of this publication, the British embassy at this capital called on the British consul at Odessa to investigate the story and report upon its truth. His report has now been made, and I am able to communicate its substance. He directed his inquiries not only among the Government officials, but among the Hebrews themselves, and the latter were as emphatic as the former in declaring that no order of the character described had been issued and no movement of the kind attempted. He found no confirmation of the story in any quarter. A number of Hebrew families had emigrated or were preparing to do so, but this action was entirely voluntary on their part, and was not taken under compulsion. This emigration was explained by the rabbis and the highest authorities among the Hebrews as due to the fact that there were many youths in those families, and that, as the number admitted to the universities in Russia is limited, they removed to other countries to secure the opportunity of higher education; and thus it was made clear that there was no foundation for the particular charge which had been preferred against the Government.

These reports of new proscriptive designs against the Hebrews on the part of the Russian Government have naturally created more concern in other countries than here, because, so far as can be ascertained, they had their sole origin and obtained their sole credence remote from the scene. Had there been any good reason for supposing that measures so repugnant to every sentiment of justice and humanity were actually undertaken or seriously contemplated, it would have been a duty to report them for such consideration as they would have required. But it is a source of special gratification to be able to present not only the denials of the Government, but confirmatory testimony that these injurious allegations are baseless.

I have, etc.,

CHAS. EMOY SMITH.

SWEDEN AND NORWAY.

Mr. Blaine to Mr. Thomas.

No. 38.]

DEPARTMENT OF STATE,
Washington, May 15, 1890.

SIR: Senate miscellaneous document No. 81, Fifty-first Congress, first session, contains a copy of the general act or conventional agreement signed at Berlin, June 14, 1889, by the plenipotentiaries of the United States, Germany, and Great Britain, in regard to the neutrality and autonomous government of the Samoan Islands. Article III of that convention provides, as will be perceived, for the establishment of a supreme court for those islands and the appointment of a chief justice of Samoa. Section 2 of article III states that "he shall be named by the three signatory powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway."

Since there appears to be no possibility of accord in the selection of the chief justice by the three governments concerned, they have decided to avail themselves of the alternative under the provision of the section cited.

You will accordingly apprise the Government of the King of Sweden and Norway of this action and request His Majesty's acceptance of the choice made by the three signatory powers. You may, at the same time, express their entire confidence that his selection will be cheerfully acquiesced in and merit their high appreciation for the courtesy thus extended.

You may intimate to the minister of foreign affairs that hitherto in every case where a similar favor has been asked of a sovereign by virtue of a treaty to which the United States was a party the sovereign has deemed it his duty to select one of his own subjects for the place to be filled. The President regards that result as the one in harmony with the reference.

I am, etc.,

JAMES G. BLAINE.

Mr. Thomas to Mr. Blaine.

No. 60.]

LEGATION OF THE UNITED STATES,
Stockholm, June 2, 1890. (Received June 18.)

SIR: I have the honor to acknowledge the receipt, on May 30, of your instruction No. 38 of May 15, stating that the United States, Germany, and Great Britain have failed to agree upon a chief justice of Samoa, and instructing me to request that he may be named by the King of Sweden and Norway, as provided in section 2 of article III of the treaty of Berlin.

I at once called upon Sir Francis Plunkett, the minister of Great Britain, and Baron Gaertner, the chargé d'affaires of Germany, and ascertained that they had received similar instructions from their respective governments.

By agreement, I called, in company with my colleagues, the next day upon Count Lewenhaupt, the minister of foreign affairs. We stated informally the matter of the reference and asked Count Lewenhaupt in what way we could formally proffer our request so as to be most acceptable to His Majesty.

Count Lewenhaupt suggested that the request should be made in separate but identical notes from the minister of each of the three signatory powers. He further stated that he had no doubt but that the King would grant the favor so requested, and that informal notice would be given each of us at the same time of the name of the proposed appointee, in order to learn whether there was any reasonable objection to his appointment.

Immediately after leaving the foreign office a conference was held by my colleagues and myself, at which an identical note was drawn up and agreed upon, conveying the request of each of the three signatory powers that His Majesty would graciously be pleased to name a chief justice of Samoa.

It was further agreed that each minister should send his note to the foreign office to-day, June 2.

I inclose herewith a copy of the identical note sent by me this day to the minister of foreign affairs.

As soon as I am notified of the name of the proposed chief justice I will send you the same by cable, together with such facts as I may be able to learn in regard to his acceptability, stated as briefly and concisely as possible.

Count Lewenhaupt considered that to communicate by mail with America would take too much time. I inferred, furthermore, from his remarks that a name would probably be proposed at an early day.

I also called upon Count Lewenhaupt alone, and in the course of a long and pleasant conversation stated to him the substance of the concluding paragraph of your instruction.

I am happy to inform you that the Count agreed fully that the appointment of a subject of His Majesty was the result naturally and logically to be expected in this case, adding that in the nature of things the King must be much better acquainted with the qualifications of his own subjects for such a position than His Majesty could possibly be with the qualifications of foreigners.

I believe it may be confidently anticipated that His Majesty will regard these views as wise and in harmony with the reference.

I have, etc.,

W. W. THOMAS, JR.

[Inclosure in No. 60.]

Mr. Thomas to Count Lewenhaupt.

LEGATION OF THE UNITED STATES,
Stockholm, June 2, 1890.

SIR: I have the honor to inform Your Excellency that by a general act signed at Berlin, June 14, 1889, by the plenipotentiaries of the United States, Germany, and Great Britain, in regard to the neutrality and autonomous government of the Samoan Islands, provision is made in article III for the establishment of a supreme court for those islands and the appointment of a chief justice of Samoa.

Section 2 of article III states that "the chief justice shall be named by the three signatory powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway."

The three signatory powers having now decided to ask the King of Sweden and Norway to nominate a gentleman for this post, I am instructed to convey to Your Excellency the request of my Government that His Majesty will be graciously pleased to name a chief justice of Samoa.

While discharging the duty imposed on me by my Government, I avail myself, etc.,

W. W. THOMAS, JR.

Mr. Thomas to Mr. Blaine.

[Extract.]

No. 66.]

LEGATION OF THE UNITED STATES,
Stockholm, July 7, 1890. (Received July 23.)

SIR: Referring to your instruction No. 38 of May 15, and my dispatch No. 60 of June 2 in reply thereto, I now have the honor to further inform you that, agreeably to the invitation of Baron Akerhielm, minister of state and acting minister of foreign affairs, I called at the foreign office at 3 o'clock this afternoon, in company with my colleagues Baron Gaertner, chargé d'affaires of Germany, and the Hon. Hugh Gough, chargé d'affaires of Great Britain.

We were received by Baron Akerhielm, who gave us informal notice that the King, in accordance with the request of the United States, Germany, and Great Britain, proposed to appoint as chief justice of Samoa, Otto Conrad Waldemar Cedererantz, a Swedish subject and associate justice of the Swedish court of appeals. Baron Akerhielm further stated that Judge Cedererantz had been consulted and would accept the position.

Judge Cedererantz was born on October 22, 1854, on his father's estate, Kulltorp, Suna parish, in the province of Småland, Sweden. At 9 years of age he was taken to Upsala, the university city of the Kingdom, and there received his earlier education at "the Cathedral School," a free public school. He passed a successful examination and entered the University of Upsala on May 17, 1872. After studying the general branches for 2 years, he entered the department of law, and thenceforth pursued the special study of the law for 4 years, or until 1880, when he graduated with honor from the university, taking the *juris utriusque candidat examen*, as it is called. He then assisted at the country courts, both as lawyer and provisional judge, for 2 years.

In 1882 he received the appointment of vice judge, and thereupon served as acting judge of the royal court of appeals continuously until 1886. He was then appointed associate justice of this court, of which he has continued a diligent and honored member up to the present time.

This court of appeals occupies in Sweden about the position that the United States circuit court does with us. It lies between the courts of instance and the supreme court.

Judge Cedererantz is in the prime of life and health. There is no stain upon his character, and he is universally well spoken of. He has achieved a marked degree of success in his profession, rather by diligent, steady, hard work than by brilliant dashes.

For knowledge of law, ability, and integrity he stands among the first of the judges of his age in this Kingdom.

He has a fair command of the English language, reading and writing it with facility and speaking it passably well.

I believe the three powers are to be congratulated upon his appointment, and I have the honor to strongly recommend the acquiescence of the United States therein.

I have, etc.,

W. W. THOMAS, JR.

Mr. Wharton to Mr. Thomas.

No. 49.]

DEPARTMENT OF STATE,
Washington, August 5, 1890.

SIR: In connection with previous correspondence upon the subject, I herewith transmit, for your information, a copy of a letter from the Acting Secretary of the Navy of the 2d instant, in regard to the transportation of the remains of the late Capt. John Ericsson, to his native country, on board the U. S. S. *Baltimore*, from New York, the 23d instant, and the ceremonies incident thereto.

The Department has forwarded to Mr. Grip, the minister of the King of Sweden and Norway at this capital, the letter (copy herewith inclosed) of the Navy Department, inviting him to be present on that date, accompanied by the members of his legation and such consular officers of Sweden in this country as he may designate.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure in No. 49.]

Mr. Soley to Mr. Blaine.

NAVY DEPARTMENT,
Washington, August 2, 1890. (Received August 4.)

SIR: I have the honor to apprise you, in connection with previous correspondence, of the intention of this Department to send the remains of the late Capt. John Ericsson to Sweden, his native country, on board the U. S. S. *Baltimore*, from New York. Arrangements for the final transportation of the body are now being made, and I inclose, for transmission to the minister of Sweden at this capital, an invitation to be present at the final ceremonies, which will take place on the 23d instant.

The Department will be gratified if you will forward this invitation to Mr. Grip. I have also to ask that you will notify the United States minister at Stockholm of the intended departure of the *Baltimore*.

I have, etc.,

J. RUSSELL SOLEY,
Acting Secretary of the Navy.

[Inclosure.]

Mr. Soley to Rear Admiral Braine.

NAVY DEPARTMENT,
Washington, August 2, 1890.

SIR: The Department has fixed the afternoon of Saturday, the 23d of August, as the time for the embarkation of the remains of the late Capt. John Ericsson for transportation to his native country on board the U. S. S. *Baltimore*.

The Department has assumed this duty in response to an intimation conveyed by the minister of foreign affairs of Sweden and Norway, through the United States minister at Stockholm, to the Department of State, that it would be regarded by the Government and people of Sweden with peculiar satisfaction.

Apart from the desire thus expressed, it is in the highest degree appropriate that the United States, through its Navy, should pay this final tribute to the memory of the great Swedish inventor. As the most famous representative of the Scandinavian race in America, his name stands for that of a kindred people, who have given to this country a large and highly valued element among its adopted citizens. An officer of the Swedish army in early life, Ericsson closed his career with the illustrious distinction of being among the foremost of American mechanics. Of the innumerable applications of mechanical art that are the fruit of his genius, many so long ago passed into general use that they have ceased to be associated popularly with his name; but his achievements in the field of naval science will remain forever a monument to his memory. To the U. S. Navy he gave the first monitor, and in it he gave to all the navies of the world the germ of the modern battle ship.

For these reasons it is the Department's desire to surround the embarkation with every circumstance that can invest it with dignity and solemnity. All the vessels of war that may be available will be assembled at New York, and will be directed to unite with you in paying to the deceased the honors befitting his rank and his distinguished name. The details will be regulated by you in consultation with the representatives of Captain Ericsson and the officers of the associations desiring to take part in the ceremony. The anchorage ground near the Statue of Liberty is designated as the place where the *Baltimore* will receive the remains, and the other vessels of war will be anchored in her vicinity. The marines from the ships and the station will form the guard of honor to escort the body from its present resting place to the Battery. It will there be embarked on board the *Nina* and conveyed to the *Baltimore* under the escort of all the available steam launches and pulling boats of the squadron, formed in double column, the steam launches preceding the *Nina*.

The Department has extended to the minister of Sweden and Norway at this capital an invitation to be present, which will include the members of his legation and such officers of the consular service of Sweden in this country as he may designate. Letters have also been sent to the executors of the deceased and to Rear Admiral John L. Worden, U. S. Navy, the veteran captain of the *Monitor*, inviting them to take part in the ceremonies and to accompany the remains to the *Baltimore*. It is the intention of the Secretary of the Navy to be present. By the publication of this letter the Department invites all associations composed of the friends, companions, or former countrymen of Captain Ericsson to take part in the procession to the Battery, and to report to you through their representatives for instruction as to their position in the line and other details of the ceremony.

The flag officers who may be in New York will be directed to coöperate with and assist you in carrying out this programme, the details of which you are authorized to modify as circumstances may require.

Very respectfully,

J. RUSSELL SOLEY,
Acting Secretary of the Navy.

Mr. Wharton to Mr. Thomas.

No. 50.]

DEPARTMENT OF STATE,
Washington, August 26, 1890.

SIR: I inclose for your information copy of the order issued by the Acting Secretary of the Navy on the 18th instant in reference to the salute to the Swedish flag fired on the occasion of the embarkation on the U. S. S. *Baltimore* at New York, on the 23d instant, of the remains of Captain Ericsson.

The cruiser sailed on the same day, with orders to disembark the remains, as requested by the Government of Sweden, at Gothenburg, where she is expected to arrive about the 12th proximo.

The Department desires you to be present at Gothenburg on her arrival.

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure in No. 50.]

*Mr. Soley to the commandant of the navy-yard, New York*NAVY DEPARTMENT,
Washington, August 18, 1890.

SIR: Upon the occasion of the embarkation of the remains of Captain Ericsson it is the desire of the President to give solemn expression to the cordial and fraternal feeling that unites us with a kindred people, the parent source of a large body of our most valued citizens, of whom the late inventor, a Scandinavian by birth and an American by adoption, was the most illustrious example. In recognition of this feeling and of the debt we owe to Sweden for the gift of Ericsson, whose genius rendered us the highest service in a moment of grave peril and anxiety, it is directed that, at this other moment, when we give back his body to his native country, the flag of Sweden shall be saluted by the squadron.

The Department therefore issues the following instructions:

The colors of the squadron will be at half-mast during the embarkation.

Minute guns will be fired from the monitor *Nantucket* during the passage of the body from the shore to the *Baltimore*.

As the *Baltimore* gets under way and passes the vessels of the squadron, each vessel will masthead her colors, display the Swedish ensign, and fire a national salute of twenty-one guns.

The *Baltimore* will immediately proceed to sea.

By command of the President.

J. RUSSELL SOLEY,
Acting Secretary of the Navy.

Mr. Thomas to Mr. Blaine.

No. 74.]

LEGATION OF THE UNITED STATES,
Stockholm, September 15, 1890. (Received September 30.)

SIR: I have the honor to inform you that the remains of John Ericsson were delivered to Sweden at 2 o'clock Sunday afternoon, September 14.

The scene on the deck of the United States war ship *Baltimore* was an impressive one.

The coffin of polished oak containing Ericsson's body had been taken from the catafalque and placed on deck midships and close to the star-board rail. The coffin was covered with the American and Swedish flags.

Around it were grouped the officers of the *Baltimore*, the diplomatic and consular representatives of the United States at Stockholm, and the officers appointed by the Swedish Government to receive the remains.

All heads were uncovered. Behind us were drawn up a file of United States marines.

Captain Schley then delivered the coffin to me, saying in substance:

On the 23d day of August there was placed in my charge in the harbor of New York this coffin, containing the body of our far-famed friend and citizen John Ericsson, with instructions to carry it to Sweden and deliver it to the American minister at Stockholm.

To-day I have the honor to report that my mission is fulfilled as I now, Mr. Minister, consign to your hands this honored coffin.

I received Ericsson's remains from Captain Schley and delivered them to the Swedish Rear Admiral Peyron with the following words:

In behalf of the United States of America, and as her representative to Sweden and Norway, I now receive the remains of John Ericsson, that I may deliver them to Sweden, esteeming it one of the highest privileges that can fall upon the minister of any land to stand on such an occasion as a link in the chain of sympathy with which these events are binding more closely together two great and kindred peoples.

And I transfer these honored ashes with all reverence, for well I know how grandly the hand that now lies cold and still within this casket has wrought for America and for humanity.

At a critical moment in the history of the United States John Ericsson, by the creation of his genius; rendered illustrious service to his adopted country and saved her from great peril.

And the Republic is not ungrateful. Lovingly as Agrippina bore home to Rome the ashes of Germanicus, so tenderly and honorably America brings back the body of Ericsson, that the land which was his cradle may also be his grave.

The body of Ericsson we restore to you, but his memory we shall ever retain in sacred keeping; or, rather, we will share it with you and with the whole world.

And America is not unmindful that in honoring Ericsson she also honors the land that gave him birth; a gallant land, with which we have always lived in peace and friendship; a land that in the long struggle for our independence was among the first of the nations of the earth to recognize our new-born Republic; a land that has given us hundreds of thousands of our most respected citizens—chief among them all, John Ericsson, the great Swedish-American, whose sacred dust America now commits to the kindly keeping of his native Sweden.

Admiral Peyron replied in English as follows :

On behalf of the Royal Swedish Government, we have the honor to receive the remains of our illustrious compatriot, the late Captain John Ericsson, which remains have by order of the Government of the United States of America been transferred in this ship to his native country to be buried there.

At the same time, we beg that you kindly will transmit our Government's sincere thanks to the Government of the United States for the feelings of sympathy for our country that have been shown through this act.

The coffin was then swung out over the side of the ship and lowered upon a small Swedish war vessel lying alongside. At the same moment the flag of the *Baltimore* was dropped to half-mast, the marines presented arms, and the first of twenty-one minute guns was fired from the *Baltimore*.

The Swedish vessel was handsomely draped in mourning and the coffin rested upon a catafalque on deck surrounded with flowers and palms.

Under guns from the *Baltimore* and the Swedish battery on Kastellholmen the funeral procession moved slowly upstream.

First came a steam launch of the royal navy containing the Swedish officers; next the steam launch of the *Baltimore* with the captain, officers, American consul and vice-consul, and myself; then the *Baltimore's* whaleboat, cutter, and gig, containing others of her officers and twenty-four of her crew, who were to march in the procession on land.

These five boats formed an escort to the funeral barge, which followed us to the quay.

The day was perfect. A bright sun shone from a clear sky, an exceptional summer warmth pervaded the northern air, and the light breeze was scarcely sufficient to blow out the flags.

Both banks of the stream were not only lined, but crowded and packed full with a great multitude of people, larger than Stockholm ever saw before.

The windows of every house were filled, roofs covered, and belfries, steeples, and masts of vessels bristled with humanity. A strong railing was built along all the quays to prevent the people in the rear from crowding the foremost ranks into the water.

At the quay, directly in front of the statue of Charles XII, there had been erected a stately pavilion, whose central tower rose to a height of 90 feet. It was draped in mourning, and from its five turrets floated the flags of America and Sweden.

Here the funeral flotilla laid to; and here we were received by Baron Tamm, the governor of Stockholm. Here, too, the coffin was borne to

land by ten Swedish sailors and placed upon a catafalque beneath the central tower of the pavilion.

A band of music played a dirge as the body of Ericsson once more rested upon Swedish soil, and the bells rang from every church tower in Stockholm. A guard of honor presented arms.

As the tones of the dirge died away the deputies from many societies and associations came forward and placed wreaths and other floral emblems at the foot of the coffin.

Then a hymn was sung by a large choral society. A poem was read by the Swedish poet Tigerschiöld, and then another hymn was sung while the coffin was being removed from the catafalque to the hearse.

The funeral procession was headed by a detachment of the horse guards, mounted and with sabers drawn. The hearse was followed by two carriages loaded with floral offerings; next came a carriage containing the grand marshal of the Kingdom, Baron Bildt, representing the King, and another carriage with Baron Lagerfelt, representing the crown prince; then a carriage containing Captain Schley and myself, followed by three carriages holding the American consul and vice-consul and the officers of the *Baltimore*.

After us were carriages containing Ericsson's relatives; then followed a long procession marching with music and banners.

Between masses of people whose foremost ranks were composed of societies drawn up in line with standards and bands of music, the procession moved across the square of Gustavus Adolphus and through the streets of Stockholm to the central railway station.

Here the coffin was placed upon a funeral car resting upon a catafalque, beneath a canopy.

All around the catafalque were placed the floral emblems—all save one, the monitor of immortelles with the American and Swedish colors, and the white dove perched on the turret. This offering of American ladies that had crossed the Atlantic with Ericsson was securely fastened on top of the coffin, and in this position of honor followed it to its final resting place.

Smoothly and quietly the funeral train started as if drawn by invisible cords, and the coffin of polished American oak, the monitor, and the white dove glided slowly out of sight of the great multitude, who stood reverently mute with uncovered heads.

I can not close this dispatch without bearing witness to the fact that this honorable sending home of Ericsson's ashes has been productive of great good.

This act has awakened among the Swedish people a strong feeling of sympathy for America, manifestations of which I see on every hand.

By no other possible act, it seems to me, could the friendly feeling between the two nations have been so invigorated and strengthened.

One fact more. The presence of the magnificent war cruiser *Baltimore*, now lying in the harbor and towering like a colossus above every other ship of war or peace in these waters, has increased the respect of every one of the tens of thousands who have seen her for the nation which, out of her own workshops, can produce, from truck to keelson, such a perfect and powerful engine of destruction.

I have, etc.,

W. W. THOMAS, JR.

Mr. Thomas to Mr. Blaine.

No. 75.]

LEGATION OF THE UNITED STATES,
Stockholm, September 22, 1890. (Received October 8.)

SIR: I have the honor to inform you that Count Lewenhaupt, the minister of foreign affairs, has sent to this legation a box containing medals designed to commemorate the transportation of the remains of John Ericsson by America to Sweden.

I am informed by Count Lewenhaupt that it has pleased His Majesty to tender these medals as presents to the captain, officers, and crew of the U. S. S. *Baltimore*, on board which ship the body of the great Swedish-American was brought back to his native land, viz:

One medal in gold, to Captain Schley; thirty-one in silver, to the officers; three hundred and twenty-two in bronze, to the crew.

I have intrusted the box of medals to Captain Schley to be transported to the United States and delivered to the Department of State, pending the action of Congress in the premises.

I have informed Count Lewenhaupt of this disposition of the medals.

Permit me to add that I am confident the bestowal of these tokens means more than a gift to the individuals designated; it also commemorates a solemn act of international courtesy and expresses His Majesty's appreciation of the friendship and good will thus shown by America to Sweden.

I have, etc.,

W. W. THOMAS, JR.

Mr. Thomas to Mr. Blaine.

No. 76.]

LEGATION OF THE UNITED STATES,
Stockholm, September 26, 1890. (Received October 11.)

SIR: I have the honor to inform you that many courtesies and attentions have been bestowed upon the officers of the U. S. S. *Baltimore* while lying in this port.

On Monday, September 15, the citizens of Stockholm and vicinity gave a dinner to the American officers at Haxselbacken. Two hundred and fifty people sat at table. Count Lewenhaupt, minister of foreign affairs, presided, with Captain Schley upon his left and myself upon his right. The hall was handsomely decorated with American colors and emblems, the band played our national airs, and the banquet was in every particular elegant and sumptuous.

The toast to the President was proposed by Count Lewenhaupt, and to the King by myself. Each toast was received with four cheers. Admiral Virgin, of the Swedish navy, offered the toast to the captain and officers of the *Baltimore*, which Captain Schley replied to in an effective speech, received with applause.

On Tuesday at noon I presented our officers to the King at the palace in Stockholm. His Majesty shook hands with everyone and said he desired to thank the captain and officers of the *Baltimore* for the satisfactory manner in which they had performed their mission in bringing back to Sweden the ashes of one of her most distinguished sons. Taking me by the hand, the King continued that he desired to thank the United States for the sympathy and kindly feeling it had manifested towards Sweden in sending home the body of Ericsson in so magnificent a ship, accompanied with every mark of respect and honor. "These

honors," added the King, "have touched my heart and the heart of the Swedish people, and for myself and my people I wish to express our warmest thanks for the sympathy thus extended, and it is my request that you, Mr. Minister, communicate my words and express my feelings to the President of the United States."

At the conclusion of the audience the King detailed a gentleman of his household to show our officers through the palace.

Tuesday evening there was a gala performance at the Royal Opera House in honor of the American officers. They, the consuls, and myself attended as invited guests.

On our entering the opera house the orchestra struck up "The Star-Spangled Banner," and every person in the house arose and remained standing until the last notes of our national anthem had ceased.

After the opera Mrs. Thomas and I had the pleasure of entertaining our officers at a party which we gave in their honor at our residence. Besides the officers, there were present about one hundred ladies and gentlemen, representing the Swedish court, cabinet, and the best society of Stockholm. At supper I proposed the toast to the American Navy and its representatives now at Stockholm, to which Captain Schley appropriately replied.

On Wednesday His Majesty gave a dinner to the American officers at the summer palace at Drottningholm. We were conveyed in the King's private steam yacht *Sköldmön* from Stockholm, 7 miles up the Mälär Lake, to the palace.

On arrival, royal chamberlains showed us about the grounds and over the palace.

Some eighty gentlemen in all were at dinner.

The King sat at the center of the long table. On His Majesty's right was Count Lewenhaupt, minister of foreign affairs; on his left, myself. Opposite the King sat the first marshal of the court; on the marshal's right, Captain Schley; on his left, the chief engineer of the *Baltimore*, De Valin. Swedish and American officers alternated with each other down each side of the table.

During the banquet the King specially called my attention to the fact that on Sunday, when the remains of John Ericsson were lowered from the *Baltimore*, and when the first minute gun was fired and the flag dropped to half-mast on board the American ship, simultaneously His Majesty's flag was hoisted to half-mast over the palace in honor of the great Swedish-American; an honor, the King added, never before bestowed on any one not of royal blood.

While we were dining a dense fog arose, which rendered it disagreeable, if not dangerous, to return to Stockholm by water; so the King sent all the American officers back to the capital by land in his own carriages.

On Thursday, at 2 o'clock, the King, accompanied by his personal suite, visited the *Baltimore*. I was on board the ship to assist Captain Schley in receiving. His majesty was honored with a salute of twenty-one guns, the royal Swedish flag was run up on the mainmast, and the line of marines presented arms.

The King, who was educated a naval officer, was greatly interested in the *Baltimore*. He spent two hours and a half in a critical and searching examination, inspecting every detail and frequently expressing satisfaction and praise.

On leaving the ship his majesty was again saluted with twenty-one guns.

On the 21st instant the Swedish naval officers took the officers of the

Baltimore on an excursion among the beautiful islands of the Baltic on board the swift steamer *Victoria*. An elaborate lunch was served on deck, and the repast was enlivened by music, toasts, and good cheer.

On the 23d, at half past 9 o'clock in the forenoon, the *Baltimore* sailed away from Stockholm, leaving behind a very favorable impression and carrying away, I have no doubt, many agreeable memories.

The many courtesies shown the officers of the *Baltimore* were granted partly because they represented the Navy of a friendly nation; but these courtesies are chiefly due to the fact that the Swedes deeply and warmly appreciate the honor done by America to the memory of John Ericsson, and thereby to Sweden, and they sought to manifest this appreciation by special attentions to the officers of the ship that brought Ericsson home.

John Ericsson now rests in his native land, and the *Baltimore* has steamed away from Swedish waters, and I am sure both Americans and Swedes may congratulate themselves and each other that an honorable act of international courtesy has been so successfully carried out in every particular and has left behind only the happiest results.

I have, etc.,

W. W. THOMAS, JR.

Mr. Thomas to Mr. Blaine.

No. 80.]

LEGATION OF THE UNITED STATES,
Stockholm, October 23, 1890. (Received November 7.)

SIR: Referring to your instruction No. 38 of May 15 and my dispatches No. 60 of June 2 and No. 66 of July 7, I have now the honor to inform you that on October 3, 1890, the King of Sweden and Norway named Otto Conrad Waldemar Cedererantz, a Swedish subject and associate justice of the Swedish court of appeals, to be chief justice of Samoa, in accordance with the provisions of article III of the treaty of Berlin.

I have also the honor to inclose herewith a copy of the note of Count Lewenhaupt, minister of foreign affairs, informing me of this nomination, and a copy of a translation of the commission of Judge Cedererantz as chief justice of Samoa, granted by the King.

I have, etc.,

W. W. THOMAS, JR.

[Inclosure 1 in No. 80.—Translation.]

Count Lewenhaupt to Mr. Thomas.

STOCKHOLM, October 3, 1890.

MR. MINISTER: In the note which you addressed to me on the 2d of last June, you requested that in virtue of article III, section 2, of the general act signed at Berlin on June 14, 1889, between the plenipotentiaries of the United States of America, Germany, and Great Britain, with a view to preserve the neutrality and autonomy of the islands of Samoa, His Majesty the King, my august sovereign, would be pleased to name a person for the post of chief justice of those islands.

The minister of Her Britannic Majesty and the chargé d'affaires of Germany addressed me on the same date similar notes.

In response to a communication from this ministry that the King had chosen for this post Mr. O. C. W. Cedererantz, you addressed to me another note of date of the 19th September, informing me that this choice would be agreeable to your Government, and a similar notification was also made by the representatives of Germany and Great Britain.

I have now the honor to inform you that His Majesty the King has nominated for the post of chief justice of the islands of Samoa Mr. Otto Conrad Waldemar Cedererantz, doctor at law and associate justice of the court of appeals of Sweden.

In inclosing herewith a translation of the act by which the King has nominated Mr. Cedererantz to the post in question, I beg that you will give notice thereof to your Government, advising it at the same time that identic notes have been addressed to the representatives of Germany and Great Britain near this court.

Accept, etc.,

LEWENHAUPT.

[Inclosure.]

Commission of Judge Cedererantz as chief justice of Samoa.

We, Oscar II, by the grace of God King of Sweden and Norway and of the Goths and Vandals, hereby give notice that His Majesty the Emperor of Germany and King of Prussia, the President of the United States of America, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, having, in virtue of an act concerning the neutrality and independence of the islands of Samoa, signed at Berlin on the 14th day of June, 1889, by their Governments, requested through their representatives accredited at our court that we would be pleased to designate a chief justice for the islands of Samoa: Now, therefore, we, agreeably to the wish which they have expressed to us, have named and authorized, as by these present full powers we do authorize and name, the Sieur Otto Conrad Waldemar Cedererantz doctor at law and associate justice of our court of appeals of Sweden, etc., to be chief justice of the islands of Samoa. In testimony whereof we have signed these presents with our own hand and have affixed our seal royal. Done at the Chateau of Stockholm this third day of October, in the year of our Lord one thousand eight hundred and ninety.

[L. S.]

OSCAR.
C. LEWENHAUPT.

Mr. Thomas to Mr. Blaine.

No. 82.]

LEGATION OF THE UNITED STATES,
Stockholm, October 27, 1890. (Received November 11.)

SIR: I have the honor to inform you that on Tuesday, September 16, while the *Baltimore* was still lying in the harbor of Stockholm, I was waited on at the legation of the United States by seven Swedish gentlemen, forming a deputation of the Swedish Inventors' Society. The deputation, through its president, Commander C. C. Engstrom, then formally presented me with an address, beautifully engrossed upon parchment, requesting me to convey the hearty thanks of the Swedish Inventors' Society to the Government of the United States for the honor paid the inventor Ericsson by causing his body to be brought home to his native country in a manner so distinguished and exceptional.

I received the testimonial in behalf of the United States, making a speech of acknowledgment therefor, and afterwards entertained the gentlemen of the deputation with a collation.

As President Engstrom suggested that his society would be pleased to receive a reply in writing, I sent him next day a formal acknowledgment addressed to the gentlemen of the deputation.

I transmit under separate cover the original address of the Swedish Inventors' Society and inclose herewith a copy of my letter in reply thereto.

I have also the honor to inform you that on the evening of September 15 I received a telegram from the governor of the province of Werm-land, Sweden, stating that the Swedes present at a banquet which took place immediately after the burial of Ericsson had drank the toast to the President of the United States.

To this polite message I immediately replied by sending a telegram of thanks.

I inclose herewith a translation of the telegram of the governor of Wermland and a copy of my reply thereto.

I have, etc.,

W. W. THOMAS, JR.

[Inclosure 1 in No. 82.]

Swedish Inventors' Society to Mr. Thomas.

His Excellency W. W. THOMAS, JR.,
*Envoy Extraordinary and Minister Plenipotentiary
 for the United States of North America in Sweden and Norway:*

The Swedish Inventors' Society begs, through this its deputation, respectfully to request that you, Mr. Minister, will have the goodness to convey to your Government the hearty thanks of the Swedish Inventors' Society for the great acknowledgment which has been shown our celebrated countryman, Capt. John Ericsson, as an inventor by causing his body to be brought home to his native country in a manner so distinguished and exceptional.

Our society, though young in pedigree, nevertheless looks upon J. Ericsson as having emanated from the class of persons who form this our society; the same known difficulties and struggles, disappointed hopes, but sometimes also exultations have likewise been met with, and will continue to be met with, by all inventors in all times.

But if J. Ericsson's struggle in this life was hard, his reward was a great triumph. He occupied the first rank amongst inventors, not only through the geniality of his inventions, but he knew also how the same should be carried out practically. Not enough with this, he had a unique ability which only a few inventors can in any degree boast of. He knew to wit to choose the right point of time and the proper manner for carrying his projects, and in such a case, opinions can not be divided, that his Monitor could never have made its appearance more appropriately, either in respect of the point of time for its construction, or nature of its details of construction, adapted for the sea waters where it was intended to work, and the short time for effectuating it. In a few words, the Monitor was just what was required for the occasion, and was without its equal in the whole world at the point of time for its appearance at the seat of hostilities.

It happened thus, that its management in the combat by experienced and skillful officers and men by itself was equally excellent, so that the brilliant victory also followed.

As the Swedish Inventors' Society feels itself, through this magnificent homage of John Ericsson's memory and work of life, honored and encouraged, it is our desire to tender in this manner and on this occasion to the Government of the United States of North America and the people of the great Republic our thankfulness, we regarding this homage of the inventor also as an acknowledgment of invention activity as one of the most powerful levers of civilization. The Government of North America has by this action given an example which without doubt will bear fruit and prompt to imitation by other governments and people.

C. C. ENGSTRÖM,
*Commander in the Reserve, Royal Swedish Navy, Aid-de-Camp
 to His Majesty the King of Sweden, President.*

OTTO FAHNEHJELM,
Civil Engineer, Vice President.

WITH. RIDDERSTAD,
Captain in the Royal Swedish Life Guard.

C. WITTENSTRÖM,
Civil Engineer.

GUSTAV DE LAVEL,
Ph. Doctor, Civil Engineer.

CARL SETTERBERG,
Ph. Doctor and Chemist.

N. A. ALEXANDERSON,
Engineer, Secretary.

[Inclosure 2 in No. 82.]

Mr. Thomas to deputies of the Swedish Inventors' Society.

Commander C. C. ENGSTRÖM, *President*; Civil Engineer OTTO FAHNEHJELM, *Vice President*; Captain WITH. RIDDERSTAD, Ph. Doctor GUSTAV DE LAVAL, Ph. Doctor CARL SETTERBERG, Civil Engineer C. WITTENSTRÖM, Engineer N. A. ALEXANDERSON, *Secretary*:

GENTLEMEN: I had the honor of receiving from your hands yesterday, at the legation of the United States, an address, beautifully engrossed upon parchment, in which the Swedish Inventors' Society requested, through you, its deputation, that I would convey to my Government the hearty thanks of your society for the honor America had shown the memory of John Ericsson by sending home his remains to his native country in so distinguished and exceptional a manner. As I desire that the acknowledgment of such a testimonial may appear upon the records of your honorable society, permit me now to express briefly in writing what I stated to you more fully at the time of the presentation:

That, in behalf of the Government of the United States, I beg to convey to you its sincere thanks for the address and for the appreciative and sympathetic sentiments expressed therein.

The great Swedish-American, whose death as well as life has drawn our two countries more closely together, was greatest as an inventor.

It was as an inventor that Ericsson gave to America the Monitor that at a critical moment rendered the Republic inestimable service.

It seems to me, therefore, peculiarly fitting that a society of Swedish inventors should proffer its thanks to the Government and people of the United States for honors bestowed upon your illustrious fellow-countryman and fellow-worker; and I beg you to believe it will be a peculiar pleasure to me to forward your address to my Government, which, I am sure, will receive it with feelings of profound satisfaction.

I have, etc.,

W. W. THOMAS, Jr.,
United States Minister.

[Inclosure 3 in No. 82.—Translation.]

Governor Malmboeg to Mr Thomas.

FILIPSTAD, September 15, 1890.

In John Ericsson's native province, the Swedish men present at his burial have, at a banquet immediately following, drank the health of the Chief of State of that land which witnessed the triumph of Ericsson's greatest achievement, which toast they request will be forwarded by you to the President.

ADOLF MALMBOEG,
Governor of the Province of Wernland.

[Inclosure 4 in No. 82.]

Mr. Thomas to Governor Malmboeg, Filipstad.

STOCKHOLM, September 15, 1890.

Thanks for your toast to the Chief Magistrate of America, which I gladly forward to the President.

THOMAS.

Mr. Thomas to Mr. Blaine.

No. 83.]

LEGATION OF THE UNITED STATES,
Stockholm, October 29, 1890. (Received November 11.)

SIR: In order that the files of the Department of State may be complete upon the subject of a solemn act of international courtesy, I have the honor to inclose copies of the correspondence that passed between

this legation and the Swedish foreign office in reference to the transportation and reception of the remains of John Ericsson, to wit :

A note from Mr. Thomas to Count Lewenhaupt, dated August 20, 1890, conveying the information that the Government of the United States would send the body of Ericsson to Sweden on board the U. S. S. *Baltimore*.

A note from Count Lewenhaupt to Mr. Thomas, dated September 5, expressing the thanks of the Swedish Government for this grand courtesy.

A note from Mr. Thomas to Count Lewenhaupt, dated September 13, announcing the arrival of the *Baltimore*, bearing the remains of Ericsson, at Stockholm, and asking at what time and place it would be convenient for Sweden to receive from America the ashes of one of Sweden's greatest sons.

And lastly, a note from Count Lewenhaupt to Mr. Thomas, of same date, designating Sunday, September 14, 1890, at 1:30 o'clock in the afternoon, on board the *Baltimore*, as the time and place for the solemn ceremony.

I have, etc.,

W. W. THOMAS, Jr.

[Inclosure 1 in No. 83.]

Mr. Thomas to Count Lewenhaupt.

LEGATION OF THE UNITED STATES,
Stockholm, August 20, 1890.

SIR: I have the honor to inform you that I am this day advised by my Government that the remains of the late Capt. John Ericsson will be placed, with solemn and appropriate ceremonies, on board the United States ship of war *Baltimore*, in New York harbor, on August 23, for immediate transportation to Sweden, his native country.

The United States has assumed this duty in response to an intimation from the Swedish Government that such an act would be regarded with peculiar satisfaction by the Government and people of Sweden, and also in response to the well-known wishes of Ericsson.

My country desires, furthermore, to surround the embarkation and transportation of the body of the great Swedish-American with every mark of respect and honor, in order to express its appreciation of the great services rendered by Ericsson to America, as well as its sympathy and kindly feeling for the land that gave Ericsson birth.

I gladly embrace, etc.,

W. W. THOMAS, JR.

[Inclosure 2 in No. 83.—Translation.]

Count Lewenhaupt to Mr. Thomas.

MINISTRY OF FOREIGN AFFAIRS,
Stockholm, September 5, 1890.

MR. MINISTER: In your letter of August 20, you have been so good as to inform us that the mortal remains of the late Capt. John Ericsson would be conveyed to Sweden on the ship of war *Baltimore*, and we have since received information that the vessel might shortly be expected at Stockholm.

I am directed to express to you, Mr. Minister, our sincere gratitude for the great courtesy with which the Government of the United States has responded to our desire to receive the remains of our illustrious compatriot. It is well known that the deceased had preserved a lively affection for the country of his origin, though he had made another country his by adoption, and as, during his latter days, he expressed the wish to be buried in his native land, it has afforded us, his compatriots, great satisfaction to realize this desire.

Be pleased to accept, etc.,

LEWENHAUPT.

[Inclosure 3 in No. 83.]

*Mr. Thomas to Count Lewenhaupt.*LEGATION OF THE UNITED STATES,
Stockholm, September 13, 1890.

SIR: I have the honor to inform you that the United States ship of war *Baltimore* arrived at the port of Stockholm last evening, bearing on board the remains of the great Swedish-American, John Ericsson.

The commander of the *Baltimore*, Captain Schley, is instructed by the American Government to deliver the remains to the American minister, at Stockholm.

I would therefore request Your Excellency to inform me at what time and place it will be convenient for the Government of Sweden to receive from the United States, by my hands, the honored ashes of one of Sweden's greatest sons.

I am, etc.,

W. W. THOMAS, JR.

[Inclosure 4 in No. 83.—Translation.]

*Count Lewenhaupt to Mr. Thomas.*MINISTRY OF FOREIGN AFFAIRS,
Stockholm, September 13, 1890.

SIR: I have the honor to acknowledge the receipt of your note of to-day, by which you announce the arrival at Stockholm of the ship of war *Baltimore*. You inform me at the same time that you are directed to deliver into the hands of the Swedish authorities the casket containing the remains of the late Capt. J. Ericsson.

In response, I have the honor to inform you that Rear-Admiral Peyron has been directed to receive the casket. For this purpose he will go on board the ship *Baltimore* to-morrow at 1 o'clock p. m., accompanied by Mr. Beyer, director-general and ex-chief of administration of bridges and roads, and Mr. Schönmeyr, ex-captain, commander in the royal marine.

I have already expressed to you, Mr. Minister, how sensible my Government and the people of Sweden have been of the honors paid to the memory of the illustrious deceased by the Government of the United States. In reiterating to you in the name of His Majesty's Government the expressions of our sincere gratitude for the sympathetic courtesy of your Government toward the Swedish nation, of which the mission of the *Baltimore* furnishes the proof.

I avail myself, etc.,

LEWENHAUPT.

CORRESPONDENCE WITH THE LEGATION OF SWEDEN AND NORWAY AT WASHINGTON.

*Mr. Wharton to Mr. Grip.*DEPARTMENT OF STATE,
Washington, August 5, 1890.

SIR: I have the honor to inclose herewith a letter from the Acting Secretary of the Navy of the 2d instant, inviting you to be present, accompanied by the members of your legation and such consular officers of Sweden as you may designate, on the occasion of the ceremonies which are to take place at New York the 23d instant, preparatory to the embarkation of the remains of the late Capt. John Ericsson on board the United States steamer *Baltimore* for transportation to his native land, their final resting place.

Accept, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure.]

Mr. Soley to Mr. Grip.

NAVY DEPARTMENT,

Washington, August 2, 1890.

SIR: In response to an intimation conveyed in December last by the minister of foreign affairs of Sweden and Norway, through the United States minister at Stockholm, to the Department of State, the Navy Department has made arrangements to embark the remains of the late Capt. John Ericsson on board the U. S. S. *Baltimore* on the 23d instant, for transportation to his native country. It is a source of peculiar satisfaction to the Department that it should have the opportunity of paying a final tribute of respect to the memory of the illustrious Swedish inventor, whose greatest achievements in mechanical science are so closely associated with the history of the U. S. Navy.

I beg to express the hope that you will find it in your power to be present on the occasion, and will accompany the remains from the point of embarkation to the *Baltimore*, with such members of your legation and such officers of the consular service of Sweden in this country as you may designate.

I have, etc.,

J. R. SOLEY,

*Acting Secretary of the Navy.**Mr. Grip to Mr. Wharton.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,

Washington, August 9, 1890. (Received August 13.)

MR. SECRETARY: I have the honor to acknowledge the receipt of your communication of the 5th instant, inclosing me a letter from the Secretary of the Navy, who does me the honor to invite me to be present at the embarkation of the mortal remains of John Ericsson on the ship of war *Baltimore* at New York on the 23d instant.

I take the liberty to transmit herewith a reply by which I have the honor to accept the invitation which the Navy Department has kindly addressed to me.

Be pleased to accept, etc.,

A. GRIP.

[Inclosure.—Translation.]

Mr. Grip to the Acting Secretary of the Navy.

LEGATION OF SWEDEN AND NORWAY,

Washington, August 9, 1890.

MR. SECRETARY: By a letter of the 2d instant, you have been so kind as to inform me that the Navy Department has given orders for the conveyance of the mortal remains of John Ericsson to the country of his birth, and that they will be embarked on the man-of-war *Baltimore* at the port of New York on the 23d instant.

In answer to the invitation that you have done me the honor to send me, I hasten to inform you that I will consider it a duty, if possible, to be at that time in New York in order to assist at the embarkation.

His majesty's consul at New York will also have the honor of being present.

Accept, etc.,

A. GRIP.

Mr. Wharton to Mr. Grip.

DEPARTMENT OF STATE,
Washington, August 21, 1890.

SIR: I have the honor to inclose for your information copy of the order* issued by the Acting Secretary of the Navy on the 18th instant, in reference to the salute to the flag of Sweden to be fired on the occasion of the embarkation of the remains of Captain Ericsson.

Accept, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Grip to Mr. Wharton.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, August 26, 1890. (Received August 29.)

MR. SECRETARY: I have the honor to acknowledge the receipt of your communication of the 21st instant, inclosing me a copy of the order of the day of the Secretary of the Navy of the 18th instant, relative to a salute to be fired in honor of the Swedish flag on the occasion of the embarkation of the remains of John Ericsson. I beg that Your Excellency will have the kindness to transmit to the proper authority the expression of my profound gratitude for this testimonial which the Secretary of the Navy has so courteously rendered to the flag of the country which I have the honor to represent here.

I avail myself, also, of this occasion to express my thanks to Your Excellency for having, in response to my telegram of the 22d instant, caused the order to be given for the disembarking of the remains of John Ericsson at Gothenburg, where the authorities have already received orders for its reception.

Be pleased to accept, etc.,

A. GRIP.

* For inclosure see inclosure to instructions No. 50, dated August 26, 1890, to United States minister to Sweden and Norway.

TURKEY.

Mr. Blaine to Mr. Hirsch.

No. 39.]

DEPARTMENT OF STATE,
Washington, December 7, 1889.

SIR: I transmit, in further relation to the subject of instruction No. 27 of the 8th of November last, a copy of a letter from Mr. Judson Smith, of the American Board of Commissioners for Foreign Missions, and of the inclosure thereof, expressing apprehensions that Moussa Bey, the alleged assailant of the American missionaries Rev. Mr. Knapp and Dr. Raynolds, in 1882, may escape the legal punishment for his wrongdoing, which it was hoped might be the possible result of his present trial at Constantinople.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 39.]

Mr. Smith to Mr. Blaine.

AMERICAN BOARD OF COMMISSIONERS FOR FOREIGN MISSIONS,
CONGREGATIONAL HOUSE, 1 SOMERSET STREET,
Boston, December 2, 1889. (Received December 4.)

DEAR SIR: I inclose herewith a copy of a part of a letter recently received from one of our most valued missionaries at Constantinople, Rev. Henry O. Dwight. It is Mr. Dwight's special duty, by arrangement of the mission, to be in communication with the American legation and the Turkish Government and to lend his aid in anyway where the offices of the legation are called for and special dealings with the Turkish Government are required. The case referred to is that of Monssa Bey, which is doubtless well known to you personally, as it has made no little stir in newspapers on this side the sea and in England also. Undoubtedly the reference to this case made by Mr. Gladstone in the daily press of London some weeks ago has met your eye. The correspondence which is on file at Washington for the years referred to in Mr. Dwight's letter will furnish any further detail of facts that may be needful beyond what is contained in this letter of Mr. Dwight's. The important thing to be considered now is, how proper influence can be brought to bear by our Government upon the Turkish Government to see that justice is done this lawless robber and murderer, who is the dread of all eastern Turkey and at whose hands American citizens have suffered such indignities. * * * I am confident that we shall not look to our Government in vain for the manifestation of its purpose in this matter which is so urgently needed by the situation in Constantinople.

The efficient manner in which, on a critical occasion in 1842, Daniel Webster, then Secretary of State, made representation of the purpose of the American Government to secure its just rights at the hands of the Sublime Porte is one of the glorious traditions of our national history. I am confident that the Government of to-day is not one whit behind that of President Tyler, nor the courage that administers the Department of State inferior to that wielded by Webster.

Acknowledging with hearty appreciation the very prompt and efficient action taken in the affairs of our missionaries in the Caroline Islands, reported in your favor of November 25, and with renewed assurances of respect and confidence.

I have, etc.,

JUDSON SMITH,
Foreign Secretary, A. B. C. F. M.

[Inclosure.]

As to Moussa Bey, the Kord, let me go over the history of the Knapp-Raynolds case. With the details of the attack on them you are familiar. When Dr. Raynolds and Mr. Knapp arrived at Bitlis in their wounded condition the pasha of Bitlis sent out troops to arrest the criminals. The officer in command of the troops went to the father of Moussa Bey and asked him to help find the men. Mirsa Bey, the father, promptly took an interest in the matter and sent over to another tribe of Kords against whom he had a grudge, and caught four of their men at random, and delivered them up to the Turks as the criminals. In order to fix the crime more solidly upon these men, some of Mirsa's men tossed into the window of the room where they were confined a bundle containing some of the things that had been taken from the missionaries. The missionaries naturally failed to identify these men, and they were afterwards released. Meanwhile the British embassy ordered its consul at Van to go to the spot and learn for our legation all that could be found out in regard to the matter, and the consul reported that there was no concealment of the fact, on the ground, that the attack had been made by Moussa Bey with his servant and two other Kords whose names he gave, and that the attack was made by Moussa in revenge for a fancied slight put upon him by the missionaries the day before.

Upon the urgent demand of our legation that Moussa and his companions should be arrested and tried, the Government at length summoned Mr. Knapp (in October, 1883) to look at a party of Kords and see if he could identify any of them. He at once picked out one of them as the man who had cut down Dr. Raynolds, saying that he would remember his face to his dying day. This man proved to be Moussa Bey himself. Lord Dufferin, the British ambassador, now informed our legation that Moussa Bey had been positively identified by Mr. Knapp, and Mr. Knapp sent to the legation a detailed statement of the circumstances of the identification, adding a description of the man which thoroughly accords with the appearance of Moussa, as I have seen him. But Mirsa Bey, Moussa's father, visited Bitlis at this time, and, it is believed, paid the pasha about \$1,000, as a bribe, to save his son. At all events, the officials doctored the report of the proceedings in such a way as to show that Mr. Knapp failed to identify anyone as the criminal and the Sublime Porte reported to General Wallace in that sense. On the strong remonstrance of our legation, the Porte now informed the legation that the papers would be brought on to Constantinople for examination. Later (early in 1885) the minister of foreign affairs informed the legation that the interrogating magistrate and the deputy public prosecutor of Bitlis had been found guilty of "grave irregularities and had been placed under judgment." This was taken by the legation as an acknowledgment of their alteration of the record, and the arrest of Moussa Bey was again demanded. The Porte said that the authorities were using every effort to arrest the criminal, without mentioning his name, however. The governor of Bitlis did, in fact, summon Moussa to appear before the court, but he declined, and defied the troops afterwards sent out to bring him by force. There the matter rested, after General Wallace demanded money indemnity, which was refused on the ground that appeal to the courts was the proper remedy for the missionaries to take. Both Mr. Frélinghuysen and Mr. Bayard held that the identity of Moussa Bey with the assailant of Dr. Raynolds had been proved beyond the possibility of doubt, and ordered the legation to inform the Porte that the United States Government awaits the punishment of this man. The documents were pigeon-holed by the Porte and that was all the result.

Now that Moussa Bey is here in the power of the Government the Eastern mission requested our legation to demand his arrest and punishment. This has been done by Mr. King, the chargé d'affaires, in a clear and good note, but no attention has been paid to the demand by the Turks. What I have to suggest is, whether it would not be well for the board to call the attention of the President or of Mr. Blaine to this case with a view to having the legation here furnished with fresh instructions to press strongly for the punishment of Moussa Bey. * * * The legation is acting on the general principle implied in the instructions of Mr. Bayard, and new and strong instructions might do much good.

Yours, very truly,

HENRY O. DWIGHT.

Mr. King to Mr. Blaine.

No. 59.]

LEGATION OF THE UNITED STATES,
Constantinople, December 10, 1889. (Received December 31.)

SIR: Some copies of a Bible dictionary sent out for sale by the Bible House to local agents were recently seized at Erzerum, and other copies

of the same work were seized at Salonica, and the local Ottoman official at Salonica tore out one or more pages from each of these books, and then offered to return the books thus mutilated to the book agent. Each of these books, as all others sent out by the Bible House, contained a printed notice giving the date and number of the permission of the ministry of public instruction to print and sell the book.

Such seizures have happened from time to time.

Therefore, while regulating these particular seizures, I thought it would be well if I could procure a general instruction from the Sublime Porte to the local officials of such a nature as to prevent, or at least to render less frequent, such seizures, which are inconvenient and troublesome to the book department of the Bible House. It is not practicable to put the stamp of the ministry of public instruction on each book, because that would necessitate the sending back to Constantinople many books which are already in various cities in the interior of this Empire.

But the Grand Vizier and the minister of public instruction have agreed to stamp a general catalogue of books duly authorized, and to send instructions not to seize the books therein named. I inclose a copy of a note I have sent to the minister of public instruction on the subject. This proposition, before being accepted, must go before and receive the approval of the board of education, some members of which are less liberal than the Grand Vizier or the minister of public instruction, and are, in fact, reactionary in their policy, and will doubtless try to raise objections to this simple and practicable plan of preventing these difficulties. However, I hope that it will be accepted, or will result in some amelioration of the situation.

I may add that, owing to the frequent changes of officials in the Ottoman service and the absence of a fixed policy, and especially on account of the natural conflicts between two civilizations and religions so different, no absolute and permanent settlement of many of the difficulties we have in reference to books and schools and churches can be expected.

I have, etc.,

PENDLETON KING.

[Inclosure in No. 59.]

Mr. King to Munif Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, December 7, 1889.

MR. MINISTER: As Your Excellency is aware, books sent out for sale by the American missionaries are sometimes seized in the interior, notwithstanding that they have been authorized by the ministry of public instruction and bear the date and number of the authorization.

To prevent such seizures, which are troublesome to Your Excellency as well as to the missionaries, I have proposed to His Highness the Grand Vizier to have prepared a catalogue of books authorized for sale, each title to include the number and date of its authorization. Then each of these catalogues is to receive the seal of the ministry of public instruction, with a statement that every book mentioned in the catalogue has been duly authorized, and these catalogues are to be sent to the local book agents. Finally, His Highness the Grand Vizier will instruct the different valis, and through them all local Ottoman authorities, not to seize nor interfere with any book whose title appears in this stamped catalogue. His Highness the Grand Vizier regards this as satisfactory and practical, and is willing to accept it if it is satisfactory to Your Excellency.

As Your Excellency informed me verbally this week that such an arrangement would be satisfactory to you, I would be much obliged to you if you would kindly inform me when I shall instruct the missionaries to prepare such a catalogue.

Accept, etc.,

PENDLETON KING.

Mr. King to Mr. Blaine.

[Extract.]

No. 62.]

LEGATION OF THE UNITED STATES,

Constantinople, December 19, 1889. (Received January 10, 1890.)

SIR: In connection with my number 34 of October 16 last, I have the honor to inform you that the trial of Moussa Bey on the first batch of charges against him has ended and he has been acquitted.

The case has been carried up to the court of cassation on appeal.

I inclose the account of the trial as given in the *Levant Herald*, which is, I am informed, imperfect; but still it gives a general idea of how the case was conducted. The trial was public, and was regularly attended in an unofficial manner by Mr. Gargiulo, the dragoman of this legation, and a dragoman of the British embassy.

Should the verdict not be reversed by the court of cassation, he will probably be tried on other charges, as many stand against him yet, and the witnesses are here; some of which charges are more serious than those for which he has been tried.

The Grand Vizier has on different occasions spoken very frankly with me about this matter, and he has impressed me, as well as others, as being sincere. In the course of a recent conversation he said: "I hope he will be convicted. * * * I regard him as a brigand. * * * I do not expect to allow him to return to his country" (Kurdistan).

The condition of affairs in Armenia and this trial continue to attract considerable attention in England, and on the continent also.

The *Kölnische Zeitung* recently (December 10) had an article severely reflecting on the manner in which the trial was conducted.

Public opinion here, even among the Turks, is becoming stronger against him. Considering these things, and the attitude of the Grand Vizier, and the pressure of the British ambassador, Sir William A. White, who grasps the important political bearings of the "Armenian question" far better than the Turks themselves, my own impression is that Moussa will be banished to some remote province. But it is quite possible that the case will drag its slow length along for many months.

I inclose a copy of the Porte's reply to my note of October 7 last, which I have recently received.

Two things struck me in reading this: (1) The attempt to draw my attention from the main point by speaking of the articles taken from Messrs. Knapp and Reynolds; (2) the minister of justice has evidently not carefully studied the past history of the case. I inclose a copy of my answer, which I hope will continue the pressure against Moussa, and which I trust will meet your approval.

I may add that, aside from the consideration of local justice and the welfare of the plaintiffs in these cases against Moussa Bey, the trial has an important political bearing. It is the general opinion, except among the Turks, that Moussa Bey is a violent, bad, and very dangerous man; if he be not punished, it will give just grounds for renewed complaints against Turkish administration and especially against the Turkish courts.

I have, etc.,

PENDLETON KING.

[Inclosure 1 in No. 62.]

The trial of Moussa Bey in the criminal court of Stamboul.

The trial of the Kurdish chief, Moussa Bey, began on Saturday last in the criminal court of Stamboul. The court was composed of the president, Vassif Bey, and the

following members: Emin Effendi, Tahsin Effendi, Nicolaki Effendi, and Artin Effendi Mostidjian. The imperial proctor was Halid Bey, proctor-general of the court of appeal. Izzet Bey and Mehmed Ali Bey, ex-proctor-general at Mossoul, were counsel for Moussa Bey; the party for the prosecution was represented by Simon Effendi Tinghir.

At midday the court was already filled to overflowing, the trial being in every respect of great popular interest. Outside the court hundreds of persons were stationed, eager to gain admittance if possible.

Before the members of the tribunal entered the court Mighirditch, one of the accusers took his seat in the court and with him the woman Koumash, the widow of Malkhos, whom Moussa Bey is accused of murdering. The unhappy woman was in a very nervous state and wept continually throughout the proceedings.

At about half-past 12 Moussa Bey was brought in, and a quarter of an hour later the members of the tribunal took their seats. Behind the president sat Gen. Tewfik Pasha and an aid-de-camp of the Sultan and several dragomen of the foreign missions.

The proctor-general then addressed the court. He said that the order of the day included two counts of the accusation, but that the count regarding the murder of Malkhos must be adjourned to another day, as the legal delay of 5 days for the *mazbata* of the *chambre des mises en accusation* regarding this matter had not yet expired. The judges accepted this view. Upon this the proctor-general passed to the consideration of the count relative to the accusation brought by the Armenian Ohannes and his son Mighirditch.

In this affair the proctor-general said Mighirditch can not really be considered as a party, he having only played the part of denunciator in favor of his father. The latter, although a party in the trial, had not regularly appointed an attorney, and consequently Simon Effendi Tinghir, his counsel, could not to-day legally represent him. Izzet Bey and Mehmed Ali Bey, attorneys for Moussa Bey, spoke in their turn and supported the views expressed by the imperial proctor.

Simon Effendi Tinghir, counsel for the accusers, spoke in a contrary sense. He maintained that the man Mighirditch had also sustained losses; that he was present in the examination of the affairs as a party in the trial, and that he signed the two petitions presented in connection with the affair to His Imperial Majesty the Sultan. On Wednesday night a telegram to this effect was addressed to Ohannes. "We do not know," added Simon Effendi, "why the answer has not yet come, but it will no doubt reach here very soon."

The tribunal, however, dismissed the subject, and declared that for the present it would only occupy itself with the hearing of the witnesses.

The clerk then read the act of accusation relative to the Ohannes affair, of which the following is a summary:

Three years ago, on the night of July 24 (old style), Moussa, accompanied by his brothers and some other persons, came to the village of Ardak, in the sandjak of Moush, and set fire to a barn and a store of straw belonging to a man named Ohannes; he then entered the dwelling of the latter by forcing an entrance through a hole he had made in the wall, and by threats and menaces extorted from Ohannes the sum of £t.20.

The PRESIDENT. Moussa Bey, what have you to say to this?

MOUSSA BEY. I do not know Turkish well, and I express myself with difficulty in that language.

The PRESIDENT. Say what you can.

Moussa Bey then made the following statement:

At that time I was in a locality situated about 30 hours from Ardak when the fire occurred. In any case I could not in my capacity of mudir, that is to say, a Government official having the confidence of the Government, commit such an act.

The PRESIDENT. In a word, you deny having set fire to Ohannes's barn?

MOUSSA. I deny it absolutely.

The PRESIDENT. What have you to object to the accusation brought against you regarding the extortion of £t.20?

MOUSSA BEY. I did not extort the £t.20. I had lent £t.100 to Ohannes. He sent me one day 40 medjidies as an installment of his debt, and also a quantity of sugar melons, pumpkins, etc., which represented my part of the produce of a field which we were cultivating together.

Here the proctor-general intervened and proposed to hear the witnesses. There were six of them; the proctor-general demanded that all witnesses except the one under examination should be removed, so that one may not hear what the other says. "Several contradictions have already been noticed in their declarations, and if this precaution is not taken, it will be impossible to clear up the matter satisfactorily and mete out justice, which is our sole aim."

The court agreed to this proposal. Boghos, one of the witnesses, was then called.

Boghos said that he saw the fire on the night of the 21st of July. He ran to the spot,

where he perceived Moussa Bey, Eumer Bey, and Jago Bey, and another person, all on horseback. There were several other persons there whom he did not know. He saw Moussa Bey put fire to the straw lying outside the barn. The horsemen then left the village, firing some shots. He (the witness) called out to the villagers to extinguish the fire. Two men who were sleeping in the barn were nearly burnt to death; when rescued by the villagers their clothes were already on fire. He, the witness, took care to avoid Moussa Bey's presence. "I did not want to be seen by him, because I am afraid of him; he kills the people." Examined as to the motives which may have impelled Moussa Bey to commit the act, the witness said there existed a strong enmity between Moussa Bey and Ohannes. The proctor then asked the witness to name the colors of the horses ridden by Moussa Bey and his companions. This the witness did, and then added that he saw the journeyman Yakoub arrive on the spot at the same time as he did.

The PROCTOR. Did Yakoub see you also?

WITNESS. That does not concern me; let Yakoub say whether he saw me or not.

The Proctor, continuing the cross-examination of the witness Boghos, put several questions regarding the particulars of the rescue of the men in the barn, etc. He asked, among other things, how the clothes of these two men which were on fire were extinguished, whether by throwing water on them or otherwise? [Murmurs in the court.]

WITNESS. How can I know that? It is the villagers who extinguished the flames on the clothes.

In answer to another question witness declared to having seen Ohannes, the owner of the barn, come to the spot later on.

The PRESIDENT. Where was Mighirditch all this time?

WITNESS. I did not see him; he was at Bitlis.

The PRESIDENT. Was it moonlight?

WITNESS. What is moonlight?

The PRESIDENT. Could you see the moon?

WITNESS. No; it was dark.

The PRESIDENT. What day did the event occur?

WITNESS. In the night of 24th of July.

Izzet Bey, counsel for Moussa Bey, then put some questions regarding the particulars of the fire and the position taken up by Moussa Bey and his brothers on the spot. The first witness was then removed from court and the second witness, Yakoub, called. Yakoub is an old man, speaking with a broken voice which is hardly audible.

The deposition of the witness may be summarized as follows: He saw the fire and hastened to the spot; here he espied three horsemen engaged in firing the straw; he gave the alarm; he recognized Moussa Bey, Eumer Bey, and Mourad Bey; the two first were on horseback. Several villagers came to the spot, but when they arrived Moussa Bey was gone. He heard in the distance the firing of two shots. Two servants who were in the barn were rescued. He saw Boghos on the spot.

The PRESIDENT. Had Boghos arrived before or after you?

WITNESS. I do not know.

The PROCTOR. Did Boghos see you?

WITNESS. Yes.

The PROCTOR. What did he tell you?

WITNESS. Was there time to talk then? I cried out for help. I did not then say that it was Moussa Bey who had set the fire. I said so 4 or 5 days after.

The PRESIDENT. Who was in the barn?

WITNESS. Guiaz (John) and Ovo (Avidis).

The PROCTOR. With what was the barn fired?

WITNESS (taking a few matches from the president's table). With this.

The PRESIDENT. Did you see Ohannes?

WITNESS. No.

Questions were then put to the witness regarding the color of the horses and other particulars.

The declarations of the two witnesses were thus to the effect that 3 years ago, on the night of the 24th of July, Moussa Bey and his brothers, Eumer Bey, Jago Bey, and Mourad Bey, fired the barn and straw of Ohannes. Their depositions do not agree as regards the exact time of the fire, their meeting on the spot, the whereabouts of Mighirditch, the suit of clothes worn by the servants in the barn, and upon some other particulars of like importance.

The imperial proctor concluded, therefore, that the declarations of the witnesses were contradictory. The court then rose, the next sitting being fixed for to-morrow, Tuesday, when the witness in the matter of the murder of Malkhos will be heard.

SECOND DAY.

The second sitting in the trial of Moussa Bey began yesterday about 12:30. As on the first day, the court was full, and several persons who could not obtain seats remained in the precincts of the court during the proceedings. Behind the president sat Tewfik Pasha, Ahmed Pasha, and several dragomans of the foreign missions. In opening the sitting the president stated that Salih Bey had replaced Tahsin Effendi, one of the judges, who was absent owing to indisposition. Simon Effendi Tinghir hereupon declared that he was present on behalf of Garabet, son of Ohannes. Garabet confirmed the statement, and the court having taken note of the fact, the case proceeded. It was mentioned that Ohannes had replied to the telegram sent to him on Wednesday last, and has legally appointed Simon Effendi his attorney, of which fact the latter begged the court to take note.

The clerk now read the *procès verbal* of the last sitting, which was adopted, with some slight corrections proposed by the proctor-general, Halid Bey.

Mehmed Ali Bey, one of the counsel for the defense, asked permission to present certain objections to the declarations of the witness in the matter of the fire. This was opposed by the proctor-general, who recommended the hearing of all the witnesses before discussing their respective depositions. The court, however, agreed to accede to the demand of Mehmed Ali Bey. Hereupon Moussa Bey rose and addressed the court. He said that, contrary to the statements of the witnesses, there were no shops in the village of Ardouk; that the buildings so designated by them are simple huts with low walls covered with a timber roof. He denied the possibility of setting fire to them. He then stated that one of the witnesses could not possibly see or hear anything, as he was old and deaf. Moussa Bey concluded with the declaration that the witness had been bribed to appear against him.

Izzet Bey, counsel for the defense, followed, and maintained that his client was in a locality 40 hours distant from the spot when the fire occurred. Mehmed Ali Bey, the second counsel for the defense, also addressed the court in his turn. He criticised the declarations of the witness, laying stress upon the evident enmity of the Armenians towards Moussa Bey.

The PROCTOR. This is quite a speech, and he only asked permission to offer some remarks.

Mehmed Ali Bey insisted upon completing his remarks. He said that it was his duty to defend his client from the charge of criminality, and he considered it a duty to enlighten public opinion on the subject.

At the instance of the procuror-general the court refused to allow him to proceed, and the witness Ohannes was called. Witness said he was 46 years of age, and knew Garabet. As he was going his rounds as *bekâji*, he heard a noise in the village; it was then 4 o'clock at night. He approached and saw Moussa Bey, who threatened to blow his brains out unless he went away. The accused and his companions then pierced the wall, entered the house, and seized a number of things—linen, etc. Witness saw nothing more.

Cross-examined on matters of detail, witness contradicted himself at times. He declared that the wall was built of earth and stones; that he was between 100 and 200 paces from the scene of the crime, and that Moussa Bey had several followers with him.

IZZET BEY. Was the wall pierced when you arrived?

WITNESS. Nearly open.

IZZET BEY. At what hour of the night?

WITNESS. At 1 o'clock.

The PROCUROR. What was the size of the hole made in the wall?

WITNESS. A pick.

The PROCUROR. How much was carried away?

WITNESS. There were large and small bundles.

IZZET BEY. Who entered the house?

WITNESS. Mourad Bey and Eumer Bey.

PRESIDENT. At what time?

WITNESS. Towards half-past 4.

PRESIDENT. Was it moonlight?

WITNESS. Yes.

The PROCUROR. Who made the opening in the wall?

WITNESS. Mourad Bey and Eumer Bey; Moussa Bey was on the roof.

Witness proceeded to describe the house. It was a native house, low pitched, and containing only one spacious apartment. Witness appeared much embarrassed, and the procuror-general noticed contradictions in his statements.

In reply to questions, witness said that he returned home and that other persons informed the proprietor of the robbery committed at his house.

The clerk read the first deposition of the witness, who declared having seen necklaces, bracelets, and other trinkets carried away by the said individuals.

WITNESS. I was in my room ; I saw a gathering of people, and went out to see what was the matter.

The procuror-general again drew attention to the contradictions in the depositions of the witnesses, whom he taxed with imperfect knowledge of the Turkish language. It is impossible, he declared, that there should exist so many contradictions.

Another witness was called. This man did not know Turkish. The proctor proposed that a functionary should act as interpreter. Finally one of the audience, a native of Bitlis named Manonk, was accepted in that capacity.

WITNESS. We were on the watch ; I approached a place ; a man called out to me, "Go back or I'll blow your brains out." It was Moussa Bey, Ahmed Bey, and two persons. The two were engaged in making an opening in the wall of the house ; the other two were watching the place. After taking the objects they went away. We were hiding in a hollow.

The PROCTOR. Who was with you ?

WITNESS. Ohan, son of Nikho.

The PROCTOR. What time was it ?

WITNESS. Half-past 4.

The PROCTOR. Was it moonlight ?

WITNESS. The moon was low.

The PROCTOR. What do you mean ?

WITNESS. The moon was 2 cubits above the horizon.

Simon Effendi explained that witness was describing the moon in her first quarter.

The PROCTOR. What month was it ?

WITNESS. This month.

The PROCTOR. What year ?

WITNESS. It is over 2½ years ago.

IZZET BEY. At what place had the witness and his companion arrived ?

The proctor remarked that this question was a repetition.

Witness declared that his attention was attracted by the barking of the dogs.

The witness Ohannes was recalled, and declared that he had come from an opposite direction to that of the witness under examination. Witness stated that there was nobody in the house pillaged ; that they reported the robbery after the departure of the thieves.

The court then adjourned for luncheon.

On the proceedings being resumed at 2 o'clock on Tuesday the witness Boghos was called, and Gaspar Effendi, who had acted as interpreter to the woman Koumash, was requested to interpret for this witness, the latter not understanding Turkish. After addressing some questions Gaspar Effendi abandoned the task, declaring that he could not understand the dialect of the witness. A man from the audience who gave his name as Karnik offered to act as dragoman. He unconsciously misinterpreted the declarations of the witness and murmurs were heard in the court. As Karnik was evidently incapable of understanding the witness, he was succeeded by a native of Moush.

The proctor asked how the wall was built.

WITNESS. In loose stones and earth, without mortar.

The proctor then asked for some further explanations and declared the answers of the witness to be contradictory.

The PROCTOR. Where was the family at this moment ?

WITNESS. In the next room separated by a wall.

IZZET BEY. Is it the wall or the roof that was pierced ? The witnesses say that it was the wall and the roof. Moreover, as their declarations are contradictory and compromise the honor of my client, I request that an action be entered against them for perjury.

The witness Hadji Kevork was called to give evidence in the matter of the stealing of the £t.20.

WITNESS. I was at Garabet's. I saw Moussa Bey, Joso Bey, and the others. He took the £t.20.

The PROCTOR. Where was the money found, in the house ?

WITNESS. No ; in the village of Varières.

The PROCTOR. How did Moussa Bey take the money ?

WITNESS. By force. He bound the father and the son.

The PROCTOR. Where did he bind them ?

WITNESS. To a strut.

The PROCTOR. Who counted the money ?

WITNESS. Garabet.

The PROCTOR. You said he was bound.

WITNESS. He was attached by the body ; the hands were free.

The PROCTOR. Was he maltreated ?

WITNESS. Why should he be ; did he not give the money asked ? [Laughter.]

The PROCTOR. Did they bind the father and the son ?

WITNESS. Not the father; he is old.

The PROCTOR. You just said that they had both been bound.

WITNESS. At first, yes; not afterwards. They remained bound during 3 to 4 hours. I was there.

The PROCTOR. Where was the money found; was it in gold or silver? Gold is very rarely to be found in villages.

WITNESS. It was in gold. Every peasant keeps one or two Turkish liras for the taxes, so that he may not be maltreated at the time of the collecting of the taxes. This is how £t.20 could be brought together.

Here Moussa Bey rose and asked permission to speak. He opened his overcoat and drew a Koran out of his pocket; he also asked for a Bible, which was brought to him.

MOUSSA BEY. We Mussulmans believe in the Koran, but regard Christ as a prophet. Therefore, I swear upon these two sacred books that I have not committed the acts imputed to me. These Armenians are all against me. I have done them good. Let them now say what they wish.

A discussion arose after these words between Moussa and Garabet. The tribunal imposed silence on both.

The PROCTOR. What is the distance between the village of Ardouk and that of Vartères?

WITNESS. Five minutes.

The PROCTOR. With whom were you?

WITNESS. I was with Helo.

The PROCTOR. Were Moussa Bey and his people on horseback?

WITNESS. Yes.

The PROCTOR. How many were they?

WITNESS. Moussa Bey, Eumer Bey, Hassa, Mourad Bey, in all ten persons. They were in the room.

The PROCTOR. What sort of room was it?

WITNESS. A large room similar to many in Anatolia.

The PROCTOR. Where were the horses?

WITNESS. In the stables.

The witness Minasse was brought into court. This witness was also unacquainted with the Turkish and spoke through an interpreter.

The PROCTOR. Your name?

WITNESS. Minasse, son of Melkon.

The PROCTOR. Your native country?

WITNESS. Ardouk.

The PROCTOR. What age are you?

WITNESS. I do not know.

The PROCTOR. Do you know Garabet?

WITNESS. Yes.

After taking the oath the witness deposed: Moussa Bey entered the house, bound Garabet and his father. He took £t.20 from them and then went away.

The PROCTOR. Were you alone?

WITNESS. I was alone. There were also Ohannes and Garabet.

The PROCTOR. Who was with Moussa Bey?

WITNESS. There was Moussa Bey, Eumer Bey, and others.

The PROCTOR. What time was it?

WITNESS. The time to go to bed.

The PROCTOR. Were they on horseback?

WITNESS. Yes.

The PROCTOR. How many horses were there?

WITNESS. Four or five.

The PROCTOR. Where were they?

WITNESS. I held the horses and led them in.

The PROCTOR. Who was bound first?

WITNESS. Garabet, and then Ohannes.

The PROCTOR. Who went to fetch the money?

WITNESS. The mother and the wife of Garabet. They went to fetch it from the village of Vartères.

The PROCTOR. Who else came in the house?

WITNESS. Nobody else.

The PROCTOR. In what coin was the money?

WITNESS. There were gold and silver coins.

The PROCTOR. What is the distance between the village of Ardouk and that of Vartères.

WITNESS. Between 2 minutes and half an hour. (Witness seemed not to fully realize the value of his words.) What do I know. The villages in our country are close to each other.

The PROCTOR. When was Garabet unbound?

WITNESS. He gave the money and was then unbound.

The PROCTOR. Who was unbound first?

WITNESS. The father, then the son.

The PROCTOR. Why did they give this money?

The PRESIDENT. Was there an agreement or partnership between them?

WITNESS. No.

The PROCTOR. Witness declared on examination that there were 15 persons.

WITNESS. I said that there were in all 15 persons.

The PROCTOR. Was Kevork present when the father and the son were there?

WITNESS. Kevork arrived on the spot at the moment when the money was being handed. He saw they were bound.

The PROCTOR. How could he be present at this scene when, as he says, he held the horses?

WITNESS. I put the horses in and then returned.

The CLERK. Witness declared on the examination that the incident occurred in the daytime.

WITNESS. I said that it was during the night.

The next witness, the woman Koumash, was called. She wore a yashmak. She took her seat in the witness box, and, as on the first occasion, seemed completely prostrated.

The clerk read the report of the *chambre des mises en accusations* and the act of accusation, which the proctor then proceeded to develop and explain. According to these documents, Moussa is accused of murdering the miller Malkhass, of the village of Ardouk.

Questioned by the president as to this accusation, Moussa Bey formally denied having committed the murder.

Two Armenian priests, witnesses in this affair, did not appear, although the proctor stated they had been summoned by the court.

Simon Effendi replied that these two priests could not appear in the court without the authorization of the patriarchate; they have been reprimanded for signing the summons, taking the oath, and giving evidence without the permission of the patriarch. Therefore the patriarch should be requested to allow them to appear in court.

The proctor replied that nobody should disobey the law, and that all are equal before it; he asked, therefore, that the usual fine be inflicted on the two priests.

No decision in this matter was, however, taken by the court.

The president hereupon closed the proceedings, declaring that the next sitting will be held on Thursday.

THIRD DAY.

The third sitting in the trial of Moussa Bey was held on Thursday, in the criminal court of Stamboul, Vassif Effendi presiding. The court was constituted as on Tuesday. Behind the judges were seated General of Division Tevfik Pasha, ex-minister of Turkey at Washington and aid-de-camp of the Sultan, Lieut. Col. Ahmed Bey, aid-de-camp of the Sultan, and dragomans of several of the foreign missions. The crush for seats in the court was terrible, and long before the president took his seat on the bench not even standing room remained from one end of the court to the other. Shortly before the entrance of the judges Moussa Bey was led in by two *zaptiehs* and placed in the dock, his counsel Izzet Bey and Mehmed Ali Bey being seated near. Garabet and the widow Koumash were also present with their counsel, Simon Effendi Tinghir.

The president asked for the priest Gaspar to be called in reference to the assassination of Malkhass. Witness not understanding Turkish, a dragoman was obtained. Gaspar said he was 42 years of age; he came from Ardouk and that he officiated at the church of that village. On being requested to take the oath, Gaspar said that his priestly office forbade him to do so. The procuror-general and Izzet Bey here intervened and protested against witness being allowed to give evidence unsworn.

The PRESIDENT. We can hear his evidence as instruction.

The PROCTOR. I oppose it. The oath is obligatory, and, if witness refuses to take it, I demand the application of clause 284 of the criminal code.

The president having explained to witness, called upon him to take the oath.

WITNESS. The Bible forbids us to swear, but if the Sultan orders me to do it, I will obey.

The PRESIDENT. The law is the order of the Sultan.

Witness thereupon took the oath and deposed as follows: It was 11 o'clock (Turkish) in the evening, and I went to borrow 5 piasters from priest Témédre. He was not in his *harman*, but in his house. I saw Moussa Bey; he fired, and I saw a man fall; this man was accompanied by some other persons. Moussa Bey said, "Silence!" The villagers came and took the wounded man; they conveyed him to his home; he died an hour after; Moussa Bey remained that night in the village. In

the morning he ordered us to bury the dead, and threatened to make us repent if we refused to comply with his orders. Two days later the authorities were informed of the event. I did not follow the peasants who carried the wounded man to his house.

The PROCTOR. In what part of the body was the man wounded?

WITNESS (indicating the right thigh). Here. But I did not see the wound; I did not look when I was at the deceased's house.

The PROCTOR. What year did the event occur?

WITNESS. About 2½ years or 2 years and 8 months ago. It was in winter. The ground was covered with snow.

The PROCTOR. In the examination the witness said the contrary.

WITNESS. No; I said that the fields were covered with snow.

The PROCTOR. Was the sky covered with clouds?

WITNESS. I do not know now, so much time has passed since.

Mehmed Ali Bey then put some questions to the witness.

WITNESS. We did not inform the authorities. They learnt the event later on. I married the son of Malkhaas with a girl whom Moussa Bey gave to him.

MEHMET ALI BEY. What is the name of the girl?

WITNESS. I do not know it. It is so long ago. I have forgotten.

WITNESS (in reply to the proctor). In winter and in summer the place used to thrash the wheat and barley is called *harman*.

The PROCTOR. Why did he go to the *harman*?

WITNESS. I went to the *harman* of Father Témèdre to borrow 5 piasters from him.

The PROCTOR. What was the distance between the place where Moussa Bey was and that where Malkhaas was?

WITNESS. It was far; I can not fix it in hours.

The PROCTOR. We do not ask you to fix it in hours; we ask you the distance that there was between the spot where Moussa Bey was and that where Malkhaas fell.

WITNESS. Four minutes, perhaps; I can not say precisely. I could see the men, but I could not distinguish Malkhaas.

The PROCTOR. Who were the persons who accompanied Malkhaas?

WITNESS. I do not know. I did not ask.

The PROCTOR. Did Moussa Bey arrive on the spot before or after them?

WITNESS. He came after us, and he went on to a hollow part of the way.

The proctor put some questions regarding the position of the hollow ground.

Izzet Bey also questioned the witness on the same subject.

WITNESS. It was a little hollow. It was as far as from here to there [he tried to explain by signs].

The PROCTOR. What depth?

WITNESS. About one pick.

The proctor repeated a former question.

WITNESS. The hollow was not far from the *harman*; we were in the *harman* and not in the barn with the straw.

The PROCTOR. Was the *harman* before or behind the barn?

The PRESIDENT. Was the door of the barn before the *harman*?

WITNESS. There were two barns [he again tried to explain by signs].

The PROCTOR. It is impossible to understand.

The PRESIDENT. On what side was the door?

WITNESS, words apparently failing him, again had recourse to signs to explain, but did not succeed in making himself understood.

IZZET BEY. Before which barn was he standing; on the right or the left?

The PROCTOR. To whom did these barns belong; to two different persons?

WITNESS. To one person.

IZZET BEY. Before whose barn was he?

WITNESS. I was before that of the priest.

The PROCTOR. The priest from whom you asked 5 piasters?

WITNESS. Yes, Témèdre.

Izzet Bey questioned the witness with regard to the position of the doors.

WITNESS. I can not recollect on what sides the doors were.

Izzet Bey continued to question the witness. Was the village far from the spot where Malkhaas fell?

WITNESS. A little.

IZZET BEY. How many priests are there in the village?

WITNESS. Four. I, Témèdre, Gabriel, and Matheos, who is old.

IZZET BEY. Who are the priests who assisted at the funeral of Malkhaas?

WITNESS. All the priests of the village.

Izzet Bey asked where the wound was, upon which the witness pointed to his thigh.

Izzet Bey further asked who paid the expenses of witness's journey.

WITNESS. The woman Koumash.

IZZET BEY. Who informed the villagers of the crime?

WITNESS. They heard of it and came to the spot.

Mehmed Ali Bey wished to know if witness saw the wound.

WITNESS. No.

IZZET BEY. When did the funeral take place?

WITNESS. In the morning of the next day.

Questioned by the proctor, witness declared that he had been called by Moussa Bey, who ordered him to bury Malkhass.

The proctor drew attention to certain contradictions in the declarations of the witness.

IZZET BEY. In what room of the house was deceased placed? Did he not name his murderer before dying?

WITNESS. He could not speak.

THE PROCTOR. Where was he placed—on a sofa?

WITNESS. On a piece of felt; there are no sofas in our home.

The witness was hereupon dismissed. In reply to the question of the president Moussa Bey said: I did not commit the murder. It was impossible to take aim; the snow is deep in our country, and in the dip of the road one could not see a man at that distance. One could not rest a gun on the snow. I do not accept the testimony of that man; he is related to Malkhass. How could I stay the night in the village if I had killed Malkhass? Being mudir, I could not commit the crime, and I would have prevented another from doing so. No more could I hinder the people giving notice to the authorities. The deceased's son is a major, and he could have taken proceedings against me had I killed his father. I do not make these denials to obtain my release from prison; the state prisons are better than my own konak. I protest against the evidence of that man.

THE PROCUROR. He owns to having been on the spot.

PRISONER. I saw neither the deceased nor his funeral.

THE PROCTOR. How did that happen? He was present, yet he saw neither the deceased nor his funeral.

PRISONER. I was there, but I saw no such things.

THE PROCTOR. Oussepe, son of Malkhass, declared that his father had been wounded; they made inquiries and found that he had been wounded by Moussa. Gabriel and Oussepe declared that Moussa was there the day that Malkhass was wounded.

PRISONER. I do not know. They also go hunting, but I did not see them. It was not till 3 months afterwards they said that I had killed Malkhass. They came to ask my authority for Oussepe's marriage, and I gave it and was even present at the wedding. Such things are customary with us.

THE PROCTOR. When?

MOUSSA BEY. Three years ago. Justice is equal for all. I am a prisoner; these witnesses are free. A number of Armenians, of whom some are prosecutors and others witnesses, signed a petition at Moush against me; I do not accept their evidence.

The priest Témèdre was called. He had scarcely entered when he began to speak in Armenian, and asked for an interpreter, as he could not speak Turkish.

THE PROCTOR. How was it that he made his statement in Turkish at the preliminary examination?

WITNESS. I could only reply by the aid of signs.

The proceedings were here interrupted by a loud cry from the body of the court, where some disturbance was going on. The president threatened to have the court cleared at once if silence were not restored.

In reply to the president witness said he was between 30 and 35 years of age.

THE PRESIDENT. Tell us what you know against Moussa Bey. Do you promise to say the truth?

A zaptieh took the priest by the arm and pushed him towards the Bible.

WITNESS. Let me go. I can not take the oath.

THE PROCTOR. The other priest has taken the oath.

The zaptieh again urged the witness forward.

WITNESS. Leave me alone! I am a priest. I swore once not to lie; this must be enough. I took the oath once, but I have been reprimanded by the patriarchate; I shall tell the truth.

THE PROCTOR. If it is a sin, why did he take the oath in the examination?

THE PRESIDENT. You must take the oath.

WITNESS. I can not do so without the authorization of the patriarch.

THE PROCTOR. I ask the application of article 284 of the code of criminal procedure.

WITNESS. If His Imperial Majesty the Sultan orders it, I shall obey.

THE PRESIDENT. Yes, it is the order of His Majesty.

Witness finally took the oath.

WITNESS. I saw the scene. I was in the *harman*. I had left my house, having been called by the priest Gaspar. At this moment Moussa Bey passed near us; he went into a hollow way whence he fired his gun at a man, wounding him. We

asked ourselves: Is it a Mussulman? Is it an Armenian? An hour after the wounded man died. The body remained in the house the whole night. Next morning Moussa sent for me and with threats ordered me to bury the body without informing the authorities. "If you do inform, I shall kill you," he said. Moussa Bey said that he would be like a father to Oussepe; would take care of him and would marry him if no complaint were made. Some days after the authorities heard of the event and summoned Oussepe. Moussa Bey heard of this and proceeded to Moush at the same time as the son of Malkhass.

The PROCTOR. Was there much snow?

WITNESS. Yes; but not much in the hollow way, which was trodden.

The PROCTOR. What thickness was it?

WITNESS. I do not know. I did not measure it.

The PROCTOR. Who came from the village?

WITNESS. What do I know? The villagers.

The PROCTOR. How many houses are there in the village?

WITNESS. Forty.

The PROCTOR. Where did Moussa remain?

WITNESS. In the room of Mardiros.

The PROCTOR. Where did he sleep? In a bed?

WITNESS. On the floor; there are no beds in our country.

The PROCTOR. Did you see the wound of Malkhass?

WITNESS. I saw it; it was here [pointing in the direction of the right groin]. I saw it with my eyes.

The PROCTOR. Did the priest Gaspar see it too?

WITNESS. I do not know. I met the priest Gaspar at Malkhass's house. I saw the wound.

The PROCTOR. In what leg?

WITNESS. Here [showing as before].

The PROCTOR. On the right or on the left?

WITNESS. How do you call this side?

The PROCTOR. The right side. Did he go with Gaspar to Mardiros's?

WITNESS. I can not tell. I have forgotten it.

The proctor called attention to certain contradictions.

Izzet Bey wished to know how the villagers heard of the affair.

WITNESS. They were on their roof.

IZZET BEY. How? In the middle of winter they were on their roof?

WITNESS. Roof (dam) with us signifies house.

The proctor and Izzet Bey continued to question the witness.

The PROCTOR. What was the distance between Malkhass and the hollow distance?

WITNESS. From 150 to 200 paces.

The PROCTOR. How could you recognize him at this distance?

WITNESS. I did not recognize his features, as there was a mist, but I could distinguish his clothes (*aba*).

The PROCTOR. What time was it?

WITNESS. Eleven o'clock in the evening.

MOUSSA BEY. Is it possible to take aim in the mist?

The PROCTOR. When did Moussa Bey arrive on the spot, before or after Gaspar?

WITNESS. After Gaspar. He passed near us.

The PROCTOR. Had you then given the 5 piasters to Gaspar?

WITNESS. Not then. We went into the house afterwards, and there I gave him the sum.

The PROCTOR. Did you not go to see who had fallen?

WITNESS. No; of what use could it be? What could we do?

The PROCTOR. What was the name of the girl?

WITNESS. I do not know. Her master is here [pointing to Moussa Bey]; let him tell himself.

The PROCTOR. Were you present in the church at the marriage?

WITNESS. Yes.

The PROCTOR. What is the name of the girl?

WITNESS. I do not know. I did not ask.

The PROCTOR. Did Moussa Bey speak to them?

WITNESS. No; he passed before us, directing his steps towards the hollow ground. He aimed and fired.

The PROCTOR. What was the distance between you and the hollow ground?

WITNESS. Five paces.

The proctor remarked that it was astonishing that they should have seen a man fall hit by a shot, should not have approached him, and should have quietly returned to the house, the one to give and the other to receive 5 piasters.

The two witnesses could not tell what the two persons did who accompanied Malkhass. The sitting was here suspended for luncheon.

The court resumed at half-past 2, when the witness, in reply to questions from the proctor, gave a description of the places: "We were in the midst of the *haram*; Moussa Bey passed by; he went to where the road dips, which was about 5 paces distant; we started to follow but he fired and killed somebody."

The proctor-general called attention to contradictions between the statements made at the preliminary examination and those made before the court. He then asked the witness if he had a suspicion.

WITNESS. No; we asked ourselves what he was doing, as there is no game there. The PROCTOR. How many times were you called to Mardiros's house?

WITNESS. Once or twice.

The PROCTOR. To Malkhass's?

WITNESS. Twice; the second time with Onasep and some villagers.

The PROCTOR. Were there many people with Moussa Bey?

WITNESS. Many; wherever Moussa went they pressed round him.

The PROCTOR. Whom did Moussa Bey send in search of you?

WITNESS. A villager.

PROCTOR. What was his name?

WITNESS. I do not know.

MOUSSA BEY. That man is a liar; he began by saying that he did not know Turkish, nevertheless he expresses himself in that language.

He has taken the oath and seeks in that way to deceive the prophet. If you wish, keep me for 4 years, but I declare that I did not fire the gun. Death is natural; they die everywhere, and Malkhass did so. I had no hand in his death.

PROCTOR. Was Malkhass your relative?

WITNESS. No.

PROCTOR. Is Gabriel?

WITNESS. Yes.

PROCTOR. What was he doing at Malkhass's house?

WITNESS. He cried.

PROCTOR. Did he bring any complaint?

WITNESS. I do not know.

PROCTOR. What is the relationship between Gabriel and Malkhass?

WITNESS. Maternal cousin.

The clerk of the court then read the *procès verbaux* of the depositions made by Oussepe, son of the deceased. He declared the first time that his father died a natural death, and that he made no charge against Moussa Bey, although some villagers accused the latter of assassinating his father. Three months after the death he deposed that his father died after 14 days from the effects of a malady with which he was afflicted, being old, 60 years. At Moush some Armenians urged him (Oussepe) to take proceedings against Moussa Bey; his father, he said, died without any trace of wound, and he could not offend God by gratuitously accusing Moussa. In another deposition Oussepe said: "My father died after 15 days' suffering. He had a bullet wound in the right leg. He was not examined by a doctor; he also had the fever; I do not know if he died from the fever or from the wound. He returned wounded, but he did not say who did it, and I did not ask the question. Moussa Bey and some Kurds were then in the village, but I do not know who fired. We did not report the death to the authorities. I do not suspect anybody."

The PROCTOR. In all the depositions Moussa Bey is declared to have been there.

MOUSSA BEY. I saw nobody. I did not see anything. I do not know.

Simon Effendi proposed the court should examine the widow Koumash. The widow accordingly was called and stood beside Simon Effendi, taking the place of Garabet, who passed behind. Witness said her name was Koumash; she did not know her age; it was about 30 years. She was a native of Ardouk and Malkhass was her husband. She was then asked to state what she saw.

The WITNESS. My husband left in the morning safe and sound and was brought back wounded.

The PROCTOR. Who wounded him?

WITNESS. I do not know. In my sorrow I did not think to ask him. Besides, he was in a dying condition and could not speak.

PROCTOR. When did he die?

WITNESS. In the evening.

PROCTOR. Did you not advise the neighbors?

WITNESS. No; I told nobody. The next day Moussa Bey had him buried.

IZZET BEY (vehemently). I notice that Garabet is whistling behind the widow Koumash. I protest against this. [The witness was brought further forward.]

The PROCTOR. Why did you not speak of your husband's death?

WITNESS. Moussa Bey threatened us with death if we spoke of it.

PROCTOR. You did not speak of it to the neighbors on the night it occurred?

WITNESS. What could the neighbors do? In the morning Moussa Bey brought some priests and had the body buried.

The PROCTOR. How did he know that your husband was dead ?

WITNESS. He was in the village ; he had killed him. It was the priest who came and told us.

The PROCTOR. Did Moussa Bey enter your home ?

WITNESS. No ; he remained at the door.

The proctor-general drew attention to some discrepancies between the depositions made by the woman Koumash in the preliminary examination and in her evidence before the court.

WITNESS. I do not know ; my sorrow must have affected my memory. Moreover, I have been suffering since my arrival in Constantinople. My husband left the house in the morning hale and sound. In the evening he was brought dying to the house.

The PROCTOR. At Moush, Moussa is said to have promised to the woman Koumash to marry her son.

WITNESS. I have not been at Moush ; it is my son who was there.

The PROCTOR. Was there a quarrel between Moussa Bey and Malkhass ?

WITNESS. No.

The court here questioned Garabet.

The PROCTOR. What did Moussa Bey do to you ?

WITNESS. He bound me and my father ; he took my money, burnt my shop, my barn with straw, my fields, pierced the wall of my house. He says he was mudir at that time. Let him say when he was mudir. When were you mudir ?

The court rose at 10 minutes past 3, the next sitting being fixed for to-day.

FOURTH SITTING.

The trial of Moussa Bey was resumed on Saturday last in the criminal court of Stamboul. The throng of people eagerly waiting for the doors to open was much greater than on any of the previous occasions, so that some crushing occurred when the door was opened, especially as only one-half was thrown open. People rushed in with irresistible force, and, though there was a much larger number of zaptiehs in attendance than before, and these brought their fists into play upon the shoulders and backs of the people, yet it was with great difficulty that accidents were avoided. Several persons received slight injuries. Thanks to the courtesy of Artin Effendi Mostidjian, judge, the representatives of the press were admitted before the general public.

Moussa Bey entered at 27 minutes past 7. The prosecutors, Garabet and the woman Koumash, appeared immediately after. All the witnesses who have hitherto appeared were also present. After a short conversation with Mehmed Ali Bey, Moussa left the court, but returned shortly after. The court made its entrance at three-quarters past 7. It was composed as on the previous occasion, excepting that Salih Effendi, judge at the court of appeal, replaced Tahsin Effendi.

The proctor-general now arose and addressed the court. He spoke at great length and not without eloquence of the part that justice plays in the world, of the duties of the proctor-general, who can not imitate the counsel ; his duty is to safeguard the general interest, which goes before the private interest. He pointed out the contradictions in the declarations made by the several witnesses at different epochs. He mentioned these contradictions one by one and concluded with the assertion that these individuals were certainly perjured witnesses. He therefore asked the court to apply to them the penalties provided in article 281 of the penal code.

The proctor spoke for 50 minutes. On his request that the proceedings should be interrupted for some minutes the court withdrew.

The court returned at three-quarters past 8. The president asked the proctor if he had anything to add to what he had said. Halid Bey replied that he had nothing further to say, except to request the court to take his demand against the witness into immediate consideration.

To this Simon Effendi Tinghir, counsel for the prosecution, objected, respectfully remarking that the matter must await the decision of the court on the trial of prisoner, and that consequently the question of perjury could not be entertained now. Simon Effendi Tinghir then addressed the court. In the preamble he exalted in eloquent terms the administration of justice under the Government of the Sultan. He then sought to establish the right of his clients to prosecute. As regards the contradictions, he said that it was not to be wondered at if certain discrepancies are met with in the depositions of simple and ignorant men, who only with difficulty convey to others what they mean. He concluded by requesting the court to pronounce Moussa Bey guilty.

After Simon Bey had resumed his seat, Izzet Bey, one of the counsel for the defense read a lengthy and eloquent speech. He spoke in eulogistic terms of the Sultan, and remarked that as calumnies had been circulated against his client, which had been echoed by the foreign press and had occupied public opinion, and as thereby a totally different color had been given to the affair, he had long been desirous of undertaking the defense of Moussa Bey. "My client," he said, "is the scion of a noble family

established for 300 to 400 years, and being rich he had no occasion to commit the robberies and the other crimes imputed to him. Therefore, in order to vindicate his honor, Moussa Bey had come to Constantinople to appear before the courts." Izzet Bey then dealt with the evidence in detail, and sought to refute separately the allegations of the witnesses against the prisoner. He pointed to a large number of contradictions, and declared that the depositions of the witnesses were pure fabrications. He therefore asked the court to acquit Moussa.

Hereupon the court rose, the next sitting being fixed for to-day, Monday.

FIFTH DAY.

The fifth and last sitting in the trial of Moussa Bey took place yesterday in the criminal court of Stamboul. The anticipation that judgment would be delivered attracted even larger crowds than before, and the court was literally packed with persons eager to hear the final result of this *cause célèbre*, which has occupied public attention so much.

The judges took their seats at 5 minutes past 7. Mehmed Ali Bey, one of Moussa's counsel, at once rose and read a lengthy speech on behalf of prisoner. After a long preamble, he declared that malevolent people had in vain tried to represent his client as an obnoxious being, as a savage. "No," he said, "Moussa Bey is a civilized man with a generous heart. Four years ago he was appointed mudir of his *sahî*, and he fulfilled his duties as a public functionary loyally. Moussa Bey has drawn upon himself the enmity of the Armenians owing to an affair in which a married priest (a semi-clergyman, as Mehmed Ali said) was engaged. The gratuitous accusations which have been showered on Moussa Bey have found an echo in the foreign press. There are four counts in the accusation. They are all pure fabrications, as I will prove to your satisfaction. The witnesses are indigent people, who have been staying in Constantinople without work for a long time; they were sent here to accuse a man, a valiant soldier, who has fought for the defense of his country." The learned counsel then entered into a detailed refutation of the depositions of the several witnesses, which he characterized as contradictory and mendacious. Moussa Bey showed evi-
 dent signs of weariness and whispered to Izzet Bey that this long discourse was superfluous, as the arguments had already been presented by Izzet Bey. Finally, unable to control his impatience, the prisoner interrupted Mehmed Ali Bey by asking the president for permission to speak. Mehmed Ali Bey remarked that his client could speak after he (Mehmed Ali Bey) had finished his speech, and quietly continued. At 5 minutes to 8 the lawyer begged the court to grant him a few moments rest. The sitting was accordingly suspended.

At 8.25 the judges returned, and Mehmed Ali Bey resumed the reading of the speech. Here another incident occurred. Izzet Bey made an attempt to seize some of the manuscripts lying on the table of his brother counsel. The latter, however, perceived the intention, and by a quick movement secured the papers. Moussa Bey smiled good humoredly at this by-play. Shortly after he again interrupted his counsel, expressing a desire to speak. Mehmed Ali Bey protested that his speech was drawing to a close, and asked to be allowed to finish it without interruption. At 9 o'clock the counsel concluded, with a demand for the acquittal, pure and simple, of his client. He had spoken for an hour and a half.

Moussa Bey now addressed the court. He deprecated the lengthy pleading of his counsel; there was no necessity to repeat all these things. "The trial has now been going on a week. All who have attended the proceedings must know on what side the right is. If people have not been convinced, all the repetitions imaginable will not make them comprehend. It is not necessary to declare here that I spring from a noble family; we are all the servants of God and equal before the law. You judges of this tribunal are wise men, appointed for that reason by the Government. You have heard me, and you have heard the witnesses for the prosecution. It now remains for you to pronounce the sentence to which I shall submit."

Garabet, one of the witnesses, rose to his feet and addressing the court said: "We are told that a lord (effendi) like the accused, can not have committed the misdeeds with which he is charged, and yet he has impoverished us, ruined our homes, set fire to our houses, and pillaged us, and he declares here that all this is not true."

The PRESIDENT. What more?

GARABET. Everywhere in our country, in a thousand places, the traces of his crimes and his misdeeds are to be seen.

Izzet Bey rose and protested against the declarations of Garabet, as they were beside the question.

GARABET. I have the right to defend my interests. If Moussa were not culpable why did he not come of his own accord to defend himself during the 2 years we have been prosecuting him?

MEHMED ALI BEY. We ask for damages.

In saying this he presented a document to the usher of the court.

GARABET. Since he has come to Constantinople we hear no more of crimes in our country, where all the people live like brethren.

MOUSSA BEY. It is not proper to praise oneself, but, as he asks why I did not appear before the authorities to defend myself, I may here remark that I remained 1 year at Bitlis and 2 years at Moush, in the governorship of Salih Pasha and Nazif Pasha. He says that I am now considered a civilized man, because I have discarded my native dress and wear a fez; thus, according to him, all those who do not wear a fez are savages. The Persians are therefore savages because they wear a pointed cap, and the English because they wear a hat. Whoever does not wear a fez is not a man. Everybody, of course, wears the costume of his native country.

Simon Effendi then rose to address the court. It was not his intention, he said, to refute the arguments of Mehmed Ali Bey, as they are a repetition of those of Izzet Bey. He only wished for a reply to the questions he had asked, and which had not been solved. "Among other things, I asked whether the judgment of the court could be based on the reports of Ibrahim Bey at Moush and on the *procès verbaux* of the depositions made at Moush. I also asked whether the contradictions which have been noticed in the depositions of the witnesses for the prosecution bear upon details or the main facts of the case. As regards the two first questions, I declare that the documents therein mentioned can not have any value, as, on application made by the accused to His Imperial Majesty the Sultan, the case has been sent for judgment here. As regards the last question, I maintain that the contradictions spoken of have regard only to details and not to the main facts of the case. Moreover, how can you expect strict accuracy from ignorant people of the lower class, especially when the events under examination occurred 3 years ago?" Simon Effendi Tinghir, in conclusion, expressed the hope that the court would not be influenced by the statements for the defense, and asked that justice be given to his clients.

Izzet Bey, in reply, maintained his point of view regarding the reports of Ibrahim Bey and the *procès verbaux* signed by the accusers at Moush. "As to the depositions of the witness, it was evident," he said, "that they were not in agreement regarding either main facts or details. It is perhaps insinuated that as the witnesses are ignorant people their errors must be pardoned, but that is inadmissible. Supposing that the seraskierate is described to a man, he would perhaps forget it some time after and be unable to describe its appearance; but if he had seen the seraskierate with his own eyes he could not forget, even after 20 years. Therefore, the argument with regard to the ignorance of the witnesses can not be admitted."

After some remarks from the proctor-general, and some further remarks from Izzet Bey, the president announced the proceedings closed, and the court withdrew for the purpose of deliberating. Exactly an hour later the judges returned and took their seats in the tribunal. The president rose, and, addressing the prisoner, called upon him to hear the following judgment, which was read by the clerk of the court:

"Whereas the evidence given concerning the crimes imputed to Moussa Bey is contradictory, and consequently is insufficient to warrant the conviction of the accused; and whereas a majority of votes of the judges has not been given against the accused on the count of arson and other crimes included in the charge, or the majority of two-thirds required to convict on the charge of assassination of Malkhass, the court acquits Moussa Bey, and orders that he be set at liberty, unless he is under arrest for other matters."

[Inclosure 2 in No. 62—Translation.]

Said Pasha to Mr. King.

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS, December 10, 1889.

MR. CHARGÉ D'AFFAIRES: I have received the note you kindly addressed to me on the 7th of October last, No. 8, relating to the matter of Rev. Mr. Knapp and Dr. Reynolds.

My colleague of the department of justice, to whom I had communicated this note, informs me, in reply, that it appears from the correspondence formerly exchanged on this subject with the local judiciary authorities, and of which notice had been given in time to the legation of the United States, that the greater part of the articles taken from Messrs. Knapp and Reynolds were restored to them, and that Moussa Bey and the other individuals who had been arrested under the accusation of having committed that misdeed have then been released on an order of "no case," issued by the *chambre des mises en accusation*, which could not discover any charge against them.

His Excellency Djevded Pasha adds then that no suit can any longer be brought on that head against Moussa Bey.

Accept, etc.,

[Inclosure 3 in No. 62.]

Mr. King to Said Pasha.

No. 17.]

LEGATION OF THE UNITED STATES,
Constantinople, December 18, 1889.

MR. MINISTER: I have the honor to acknowledge the receipt of Your Excellency's note of 10th instant in reply to mine of October 7 last, regarding the attack of Moussa Bey on two American citizens, Messrs. Knapp and Reynolds.

It is true that His Highness Airifi Pasha informed Mr. Wallace, January 28, 1884, that Moussa Bey had been released, but his statement that "Dr. Knapp had no grievance against Moussa Bey" is the exact contrary of what has been repeatedly stated to the Sublime Porte, namely, that when Mr. Knapp was confronted with several persons he picked out Moussa Bey as the man who cut Dr. Reynolds with a sword, and, as stated in my note of October 7 last, the identification of Moussa Bey is regarded by my Government as complete, and on that ground his punishment asked for.

In 1884, Mr. Knapp was in Constantinople and went with Mr. Gargiulo, the dragoman of this legation, to see His Excellency the minister of justice, and told him that he had identified Moussa Bey.

Not only was this the view taken by my Government, but His Excellency Assim Pasha, in a note to Mr. Wallace, January 12, 1885, admitted that "the inquest made by the ministry of justice had revealed certain irregularities committed by the examining magistrate and the deputy imperial prosecutor, and that these two magistrates had been put under judgment."

And again, His Excellency Assim Pasha (see note to Mr. Wallace April 6, 1885) stated that, while not consenting to a pecuniary indemnity, "it is lawful for the persons interested to bring suit against the magistrates for prejudice to their cases by reason of irregularities in the proceedings."

And Your Excellency, in your note to Mr. Cox (December 12, 1885, and compare note February 16, 1886), stated that you had insisted on a "new and conscientious examination of the affair."

In view of the actual facts in the case, and the admission of the Sublime Porte itself, I am astonished to learn that His Excellency the minister of justice should state that no suit can any longer be brought against Moussa Bey for this murderous attack, because (as he says) "when formerly arrested no case was found against him."

Permit me to say that the point at issue is not to be settled by statements about the articles or property taken from Messrs. Knapp and Reynolds, to which I did not even allude in my note of October 7 last. Your Excellency will therefore allow me to repeat and to emphasize the request of my Government, that Moussa Bey be duly punished for this crime.

Accept, etc.,

PENDLETON KING.

Mr. King to Mr. Blaine.

No. 64.]

LEGATION OF THE UNITED STATES,
Constantinople, December 21, 1889. (Received January 10, 1890.)

SIR: The present situation of our schools in Turkey is satisfactory, all things considered. I would refer to my dispatch No. 276 of January 11, 1887, as containing the settlement of the school question, which has been the basis of all subsequent action in reference to American schools in Turkey.

As to the thirty schools mentioned as closed at that time which under the arrangement were to be reopened, just such difficulties arose as I predicted; but finally all the schools which the missionaries desired to reopen were reopened.

One of these, however, situated at Hamath, in Syria, was reclosed last summer. The Grand Vizier has been engaged in a tedious correspondence with the Vali about it, and so far the permission to reopen it has not been obtained. I find nothing in the reports which have come to me of an exceptional nature in this school and think that the permission will be obtained.

I have, etc.,

Mr. Blaine to Mr. Hirsch.

No. 50.]

DEPARTMENT OF STATE,
Washington, January 13, 1890.

SIR: I have to acknowledge the receipt of Mr. King's No. 62 of the 19th of December last, and of the extracts from the *Levant Herald* giving an account of the trial of Moussa Bey at Constantinople on accusation of the crimes of murder and robbery, and his acquittal; also of the copy inclosed therewith of Mr. King's note of 18th ultimo to Said Pasha regarding the alleged attack of this person, Moussa Bey, on the American citizens, Messrs. Knapp and Reynolds, several years since.

Mr. King's note is approved. The Department regrets the apparent miscarriage of justice in the late trials of Moussa Bey and the influences which seem to foreshadow a like miscarriage of attempts to bring this man to punishment in respect of other crimes. It would be a most unfortunate commentary on Turkish justice should it appear that the ministers of the courts act otherwise in his case than the proper rules of evidence demand.

I am, etc.,

JAMES G. BLAINE.

Mr. Hirsch to Mr. Blaine.

No. 82.]

LEGATION OF THE UNITED STATES,
Constantinople, February 6, 1890. (Received February 24.)

SIR: The case of the notorious Moussa Bey has been the subject of considerable correspondence with the Department on the part of my predecessors, General Wallace and the late Mr. Cox, both of whom made every possible effort to bring him to trial for his murderous attack on two American missionaries, Dr. Reynolds and Mr. Knapp, in Asia Minor during the year 1883, the details of which are well known to the Department. Both of them were severely beaten, one of them receiving numerous sword cuts, and then both were tied and left to starve. Fortunately, Dr. Reynolds managed, after much suffering, to release himself and then assisted in freeing Mr. Knapp, both thus making their escape and saving their lives.

For this outrage, which can not be too severely denounced, Moussa Bey has never been punished. At an examination held in Bitlis Mr. Knapp identified Moussa without hesitation, pointing him out from among 6 Kurds who were brought before him similarly attired; yet all efforts to bring him to trial and punishment have thus far proved futile.

Under date of October 7, 1889, Mr. King, chargé d'affaires *ad interim*, addressed an energetic note to the Porte, again calling on the Ottoman authorities to bring the culprit to trial; to which reply was made December 10 last, in which the minister of justice is quoted as saying:

No suit can any longer be brought against Moussa Bey on account of these charges.

The reply of Mr. King to this note of the Porte (December 18 last) not having as yet elicited any answer, I determined to call on His Highness the Grand Vizier in person, in order to make to him such observations as in my judgment the nature of the case required.

Yesterday I went to the Sublime Porte, and was accorded the desired interview with the Grand Vizier, and proceeded to recount to him all the circumstances of the case, and showed him conclusively that the

Turkish Government, in the various notes from the Sublime Porte to this legation, is substantially pledged to bring Moussa to trial, notwithstanding the above quotation of the minister of justice, who predicates the opinion on the assumed fact of Moussa having been exonerated at an examination held at the time and in the district where the crime was committed. I told His Highness that the proceedings had at that time were then protested against by this legation for gross irregularities, and have many times since been the subject of correspondence between this legation and the Sublime Porte, parts of which I took this opportunity of quoting to him, as it clearly makes the acknowledgment on the part of the Ottoman authorities that the grave irregularities at the preliminary examination complained of existed, and that there should be a "new and conscientious examination of the case."

The quotations made by me were as follows: January 12, 1885, His Excellency Assim Pasha to General Wallace writes:

The inquest made by the ministry of justice has revealed certain irregularities committed by the examining magistrate and the deputy imperial prosecutor, and that these two magistrates have been put under judgment.

On April 6, 1885, His Excellency Assim Pasha says:

It is lawful for the parties interested to bring suit against the magistrates for prejudice to their cases by reason of irregularities in the proceedings.

On December 12, 1885, His Excellency Said Pasha, minister of foreign affairs, stated to Mr. Cox, "he had insisted on a new and conscientious examination of the affairs."

How, in the face of these admissions and declarations on the part of the Sublime Porte, the answer can now be made that "no suit can any longer be brought on these charges" is more than I can apprehend, and I so stated in courteous but unmistakable language to the Grand Vizier.

During the conversation we touched upon the late trial of Moussa Bey on charges of arson and murder brought against him by Americans, and on which he was acquitted by the court. This gave me the opportunity of saying to His Highness that the result of that trial and the verdict in favor of Moussa Bey had been the subject of very severe criticism in both Europe and the United States, and that I hoped the result of my present endeavor to bring Moussa to an honest trial for his misdeeds against our citizens would not give the opportunity for like unfavorable criticism either by our people or our Government.

I stated in the strongest possible terms that it should and would be my aim during my mission here, not only to maintain the friendly relations existing between the two Governments, but, if possible, to strengthen them; but that I should have to insist on justice being done in this case by trial and punishment of this man, who is a terror to all law-abiding people in his country who have either gained his enmity personally or whose possessions he covets, and who, as long as he remains unpunished for his numerous misdeeds in the past, will consider himself privileged to continue in his career of robbery and murder; and that if, after all our honest endeavors to bring this outlaw to justice, we failed in having him tried and punished, I could not see any good reason why we should not ask for indemnity for the outrages committed.

The Grand Vizier seemed impressed with the justice of my demand and stated frankly that he wanted to see justice done, and that he would call the immediate attention of the minister of justice to the matter; and, furthermore, asked me to give him full memorandums of the above quotations (which will go to him to-day in the original as used by the Sublime Porte, it being stronger even than the English translation).

I have every confidence in the honesty and uprightness of the Grand Vizier and believe he will do all that lies in his power to bring the culprit to punishment; but whether, in view of the influences which Moussa has been able to bring to bear in his behalf in the past, even the Grand Vizier can succeed in his endeavor to have him punished, I am not willing to predict.

I have, etc.,

SOLOMON HIRSCH.

Mr. Hirsch to Mr. Blaine.

No. 85.]

LEGATION OF THE UNITED STATES,
Constantinople, February 15, 1890. (Received March 8.)

SIR: In connection with Mr. King's dispatches No. 33 of October 12, 1889, and No. 55 of December 3, 1889, I inclose for your information a copy of a *note verbale* received from the Sublime Porte regarding the military service of cavasses and dragomans employed by foreign legations and consulates.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 85.—Translation.]

Sublime Porte to Mr. Hirsch.

MINISTRY OF FOREIGN AFFAIRS,
Sublime Porte, February 13, 1890.

The ministry of foreign affairs has had the honor to receive the *note verbale* which the legation of the United States of America has kindly addressed to it on the 28th of November last, No. 14, with regard to the dispositions of article V of the regulation on the foreign consulates.

The Sublime Porte, in acquiescing in the desire expressed by most of the foreign missions, has decided to call for military service only the dragomans and cavasses who may in future enter into the service of the consulates, excusing in that way from the obligation the Mussulmans at present in service. As to the Christian employes, they must without distinction pay the exoneration tax which falls to their share.

In order to prevent, however, in practice, any misunderstanding, the provincial authorities have received instruction to be always careful, when the appointment of a cavass is notified to them, to make known officially to the interested consulate the exact situation of the cavass in relation to military service.

The ministry of foreign affairs begs the legation of the United States of America to be kind enough on its side to give to its agents in the Empire instructions to the same effect.

Mr. Hirsch to Mr. Blaine.

No. 88.]

LEGATION OF THE UNITED STATES,
Constantinople, February 22, 1890. (Received March 17.)

SIR: I have the honor to report for the information of the Department that, notwithstanding there seems no visible progress in the endeavor to bring the notorious Moussa Bey to punishment for his murderous attack on two American missionaries, yet my efforts in that direction have evidently had some effect in very high quarters.

After my interview with the Grand Vizier, the latter official laid the subject-matter of it before His Majesty the Sultan, and I am justified in believing that he urged prompt action in the matter.

A few days later, however, the dragoman of this legation, Mr. Act. Gargiulo, was summoned to the palace. Upon presenting himself there, the secretary of His Majesty the Sultan proceeded to read to him a memorandum containing the views of His Majesty on the subject of my request for the punishment of Moussa Bey, the contents of which clearly prove that the Sultan has been grossly misinformed, and that an attempt has been made to prejudice his mind against our position. For the information of the Department, I will inclose a copy of the memorandum as made by Mr. Gargiulo.

His Majesty first speaks of the cordial relations existing between the two Governments, and then proceeds to remind us of the many favors shown to American missionaries ever since his accession to the throne, after elaborating on which he "regrets, and with reason, to hear that on the part of certain functionaries of the United States legation, doubts have been expressed as to the legality and the justice of the verdict issued in the trial of the matter of Moussa Bey. It can not be admitted that the United States, so well known for insisting on the principles of equity and justice, can desire the punishment of an individual notwithstanding he has in conformity with law been already declared not guilty, although on the part of certain claimants and their partisans his punishment is insisted on right or wrong;" and then follows a request to communicate the contents of the memorandum to the minister of the United States.

It is self-evident that the Sultan has been misled in this matter, and I am firmly of the opinion that it has been brought about by the efforts of the minister of justice, who has in every possible way tried to shield the criminal.

The allusion to the acquittal of Moussa Bey can certainly have no reference to the result of his examination in 1883, for we have repeated admissions on the part of the Sublime Porte since that time that said examination was not properly conducted, and that a "new and conscientious examination of the affair" should be had, and I am informed by the Grand Vizier that he communicated to the Sultan the extracts from the various notes of the Porte, which I had furnished His Highness, in which these various admissions are made. It is evident, then, that His Majesty alludes to the acquittal of Moussa Bey at the recent trial on charges brought against him by the Armenians. I am unable to see what possible connection exists between the two cases, and I am determined that they shall not be confounded, and that the culprit who committed the outrage on American citizens shall be punished if justice can be had in the Ottoman Empire.

Our dragoman, after having had the memorandum read to him, immediately stated to the secretary that His Majesty the Sultan was entirely mistaken as to our position, and on communicating its contents to me I instructed him to return to the palace as soon as possible and convey, through the secretary to His Majesty the Sultan, my sincere regrets at the evident misunderstanding of our case on his part, and my readiness to give His Majesty the fullest information in relation to it, and to show that our renewed demand for the punishment of Moussa Bey was made, not at the instigation of any outside party, but in conformity with the views of this legation as to the justice of our demand and as a consequence of the correspondence between it and the Sublime Porte, resulting in the admissions made at various times by the latter that our protest against the proceedings had against Moussa Bey in 1883 was well founded, and that a "new and conscientious examination of the affair should be had."

His Majesty, notwithstanding his reply to my message, conveyed to me through his grand master of ceremonies, that he would be pleased to see me "during the week," seems in no hurry to hear a correct statement of the case, as more than a week has passed without an appointment for an audience, and I do not feel that any more time should be lost in informing the Department of the above facts.

The memorandum, if read between the lines, will be found to contain what might be construed into a threat against the American missionaries and their great interests in this Empire, in view of which I thought it advisable to acquaint them with its contents. At a consultation held by them at the Bible House in Stamboul, the Rev. Mr. Bowen, agent of the American Bible Society, being present, they unanimously agreed to request the United States legation to continue its demand for the punishment of Moussa Bey, and communicated their request to me through Rev. Henry O. Dwight.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 88.—Translation.]

Memorandum read by Sureya Pasha, private secretary of the Sultan, to Mr. Garginlo.

Since his accession to the throne, His Majesty, in order to consolidate the good relations existing between his Government and that of the United States, has always entertained the best feelings toward the representatives of the United States. The establishment of schools and the free circulation of the missionaries, as much at Constantinople as in the provinces of the Empire where Christian inhabitants are to be found, are examples of this good feeling. The reason for this is that the Government of the United States being a neutral government, its action in regard to other powers has always been uniform, and, as it has no animosity towards the Ottoman Empire nor any political interest, it has at all times shown to this Empire a spirit of perfect amity.

There is no doubt, therefore, that the United States Government, the impartiality of which is universally acknowledged, will appreciate and affirm the good intentions and imperial favors, as well as the attitude based on the justice and the impartiality with which His Imperial Majesty surrounds all his subjects without distinction; and in order to secure them this equality, His Majesty has promoted and introduced the last judiciary reform which has established the present tribunals, which are a safeguard of the rights of everybody.

This being so, His Majesty has regretted to hear that, on the part of some officials of the United States legation, doubts have been expressed as to the legality and the justice of the verdict issued in the trial of the matter of Moussa Bey.

It can not be admitted that the United States Government, so well known for insisting on the principles of equity and justice, can desire the punishment of an individual notwithstanding he has, in conformity with law, been already declared not guilty, although on the part of certain claimants and their partisans it is insisted for his punishment, right or wrong.

Conformably with the orders of His Imperial Majesty, I transmit what precedes to you, in order to be communicated to His Excellency the minister of the United States of America.

Mr. Blaine to Mr. Hirsch.

No. 61.]

DEPARTMENT OF STATE,
Washington, March 1, 1890.

SIR: I have received your No. 82 of the 6th ultimo and must cordially approve your interview of the 5th with the Grand Vizier, relative to the case of Messrs. Knapp and Reynolds, the American citizens and missionaries, the assault on whom by Moussa Bey, in Asia Minor, in 1883, has been the subject of much correspondence with the Porte.

In pressing its complaint against Moussa Bey on the evidence furnished, this Government is actuated solely by the same desire which the Grand Vizier so frankly and honorably expresses, namely, to see exact and impartial justice done and due reparation made for the grievous wrongs inflicted on these American citizens.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Hirsch.

No. 66.]

DEPARTMENT OF STATE,
Washington, March 19, 1890.

SIR: I have to acknowledge the receipt of your No. 88 of the 22d ultimo, together with the translation which you inclose of a late memorandum of His Majesty the Sultan, in reference to your representations in the matter of the assault made on the American citizens and missionaries Messrs. Knapp and Reynolds, in Asia Minor, in 1883, by Moussa Bey.

It seems from the memorandum that His Majesty has been led to the belief that the Government of the United States, forsaking its attitude of neutral and impartial friendship which His Majesty so justly appreciates, has lent its attention to interested counsels and is demanding a reversal of the results reached under the lately established judicial procedure in the case of the alleged outrages against Armenians, of which Moussa was acquitted. As you clearly perceive, our complaint has nothing to do with this, but concerns alone the wrongful acts of Moussa against the American citizens named, which appears to have had no proper judicial examination since the summary and abortive investigation made in 1883. Notwithstanding the repeated admission by the Porte of the insufficiency of that examination, our persistent demands for a fair and open trial have been evasively met.

It is hoped that you have already had the promised opportunity of setting the matter in its true light before His Majesty, and of rendering it clear that the statements of the memorandum do injustice to the attitude of the United States.

I am, etc.,

JAMES G. BLAINE.

Mr. Hirsch to Mr. Blaine.

No. 99.]

LEGATION OF THE UNITED STATES,
Constantinople, March 19, 1890. (Received April 5.)

SIR: The case of two American citizens, Moses Angel and Shalom Kanstoroom, residents of Jerusalem, who have been subjected to illegal arrest and unnecessarily severe treatment by Turkish soldiers, has been reported to this legation by United States Consul Gillman, through Consul-General Sweeny, a copy of which I inclose.

The arrest was caused by the refusal of the above-mentioned Angel and Kanstoroom to pay the taxes on real estate demanded, of which they claimed to owe only a part.

The law for the collection of delinquent taxes on real property is plain and in no case contemplates personal arrest.

As soon as possible after receiving the information I addressed a note to the Sublime Porte, a copy of which is herewith inclosed, giving a detailed history of the case, asking for proper reparation and the issuing of orders which would prevent like occurrences in the future. Immediately afterwards I called on the Grand Vizier in order to bring the matter to his personal attention. He promised an immediate investigation and has since shown me a telegraphic report from the governor of Jerusalem, in which that official claims that the arrest was made in consequence of abusive language and threatened violence on the part of Angel, and furthermore claims that he furnished the 8 napoleons for the payment of Angel's taxes upon the latter's request and promise that they should be returned on the following day, in which latter statement he claims to be supported by the dragoman of our consulate.

In view of the conflicting statements, I have called on the consul-general for a further report in the case.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure 1 in No. 99.]

Mr. Gillman to Rechad Pasha.

CONSULATE OF THE UNITED STATES,
Jerusalem, November 28, 1889.

EXCELLENCY: I have the honor once more to bring to your notice the cases of Messrs. Moses Angel and Shalom Kanstoroom, citizens of the United States, that you may be under no misapprehension in the matter.

On the 21st instant, Kalil Lorenzo, tax collector of this city, called at the said Angel's house in Jerusalem, accompanied by three soldiers, and made a demand on him of 2½ years' taxes, which they alleged to be due on his house. Mr. Angel refusing to pay the exorbitant sum, stating that they could lawfully claim but 1 year's tax (of which he has full proof) and which he was ready and willing to pay, they attempted to forcibly enter his house. He, dreading their violent behavior, closed and fastened his door against them, when they forthwith proceeded to batter it in. But on his threatening them, they finally concluded to leave, after using insulting language towards the consulate.

Mr. Angel, having complained of this treatment to me, was, early in the afternoon of the same day, proceeding about his business in the street, when he was violently seized by the three aforesaid soldiers, without warrant or other legal process, and, in spite of his protest and such slight resistance as he could offer, was made prisoner by them, they dragging him with much brutal treatment to the court-house; in which also is the prison. On the way and while he entreated to be taken before his consul they repeatedly struck and beat him, and otherwise maltreated him, wounding him in the leg so that he was in a fainting condition, and he considers his life would have been sacrificed had not the interpreter and guard of the United States consulate arrived upon the scene and protested against the outrage, requesting his release. The soldiers, however, defying these United States officials, still held their prisoner, and carried him, with our interpreter and guard, to the court-house. I have expected that, disapproving the outrage, you would take such action as the circumstances demand, preventing their recurrence, not only from the justice of such a course, but from the fact that on the matter being brought to your knowledge you at once ordered Mr. Angel's release and paid from your own pocket 2 years' taxes on Angel's account, amounting to 8 napoleons. And, further, on a full representation of the facts by me through our interpreter on the evening of the same day (21st instant) you asked what satisfaction would be required by the consulate, and stated you would the next day give it full consideration. What was my surprise, therefore, to find that on the 25th instant Shalom Kanstoroom, another citizen of the United States, was arrested in the street by three of the military, through the order of the said Kalil Lorenzo, under similar circumstances, without any warrant, writ, or other process of law; the charge against Kanstoroom being his owing 2 years' taxes on his house.

On since bringing this with the former case before you, you have not only failed to repudiate the acts complained of, but, changing from the attitude you had at first adopted, you have justified them. Notwithstanding, on account of the very friendly

relations which have hitherto always existed between the local government in Jerusalem and our consulate, I again request you, will you kindly give the above-mentioned incidents your reconsideration.

Our citizens protest that their lives are not safe under an administration of the Government which permits the military to be employed for the arrest and maltreatment of citizens of the United States, and that by a subordinate official and civilian, without due process of law and contrary to our treaty and the direct commands of His Imperial Majesty the Sultan, a worse condition than if we were in a state of insurrection, and the like of which has been hitherto unknown in the modern government of Jerusalem.

It is unnecessary for me to indicate what everyone knows, that the law remains open, in the case of the defaulting taxpayer, to levy upon his property for the collection of the tax. There is therefore no reason, necessity, nor law for resorting to acts of violence.

I have constantly impressed upon our citizens the duty of a strict obedience to the laws of His Imperial Majesty the Sultan, and have ever been prompt in correcting any wrong doing on their part. The friendly feelings which have always actuated me in my dealings with the local government, inspire the hope that they will be met in a like spirit, proving sufficient for the amicable adjustment of the incidents complained of.

Requesting a reply at your earliest convenience,
I take the opportunity, etc.,

HENRY GILLMAN,
Consul.

[Inclosure 2 in No. 99.]

Rechad Pasha to Mr. Gillman.

MUTESSARIFLIK OF JERUSALEM, November, 30, 1305.*

BEY: I have the honor to acknowledge the receipt of your dispatch dated the 28th November, 1889, which states the complaints of Moses Angel and Shalom Kanstoroom, citizens of the United States, as to the bad treatment they have received from the collector of taxes, for not paying their indebtedness to the Government.

As the said Moses Angel did not pay the taxes for 2 years due on his house, the collector of taxes often requested him to pay the said taxes without result to the demands. They went to his house and they asked him for the same; he again refused to pay them, and using bad language towards them; they finally left the house. Shortly after when they met him in the street they again politely asked him to pay his taxes; he refused to pay and they brought him to the court-house.

Presently the dragoman of your consulate came to me and has been informed of Angel's act.

Shalom Kanstoroom is also indebted for 2 year's taxes on his house, which he has been notified to pay, but I find after inquiry no compulsion has been used toward him.

Though the said Angel's act obliged his arrest, yet for the easing of the matter and at the request of the dragoman, he has been delivered to him on condition the case should afterwards be decided in the legal tribunal; at the same time 8 napoleons were given to the dragoman to be paid on Angel's account and to be returned to me the next day; though till now have not been returned.

And as at that time the beating and wounding of Angel had not been complained of by your dragoman, neither by Angel, therefore complaining of such things now, perhaps may be for relieving himself (Angel) of censure.

And as all the foreign citizens pay their taxes without any refusal, causing no trouble, the occurrences through the aforesaid Angel are the occasion of the regard; as will be seen when the shape of the case is known as it occurred, and not as it has been reported to you. But I have shown you my desire in this matter through the dragoman of the Government.

I now come to the expression in your letter, which I read with much surprise, stating that a worse condition exists than if we were in a state of insurrection, and the like of which has been hitherto unknown in the modern government of Jerusalem.

I find no meaning for this expression, therefore I will return it; and I request you to order your citizens to no longer refuse to pay their taxes to the Government when requested.

I take the opportunity, etc.,

MOHAMMED RECHAD,
Governor of Jerusalem.

* The real date is 12 days later than the day, and the year is 584 years behind.

[Inclosure 3 in No. 99.]

*Mr. Gillman to Rechad Pasha.*CONSULATE OF THE UNITED STATES,
Jerusalem, November 29, 1889.

EXCELLENCY: I have the honor to acknowledge the receipt of your No. 252, dated the 16th of November, 1305 (1889), inclosing two bills of summons in Moses Angel's name requiring him to appear at the court of instruction. As this demand is contrary to our treaty and the direct commands of His Imperial Majesty, the Sultan, I am obliged to return the bills of summons sent in Angel's name, and at the same time I inform you that the consular court is always open for hearing and judging any case against an American citizen. I request that you communicate this to whom it concerns.

I take this opportunity, etc.,

HENRY GILLMAN,
Consul.

[Inclosure 4 in No. 99.]

*Mr. Gillman to Rechad Pasha.*CONSULATE OF THE UNITED STATES,
Jerusalem, December 14, 1889.

EXCELLENCY: I have the honor to acknowledge the receipt of your letter of the 12th instant, in reply to mine of the 28th November last, and having reference to the cases of Moses Angel and Shalom Kanstoroom.

After your assurance of regret at the arrest of those citizens of the United States and the maltreatment of one of them, conveyed to me by your dragoman, Bichara Effendi on the 7th and 9th instant, together with your statement that you had given strict orders to prevent the recurrence of such conduct, and that you had punished the soldiers concerned in it, I confine myself simply to expressing my extreme surprise that you now should have adopted your present attitude in the matter.

I take the opportunity, etc.,

HENRY GILLMAN,
Consul.

[Inclosure 5 in No. 99.]

*Affidavit of Moses Angel.*JERUSALEM, *December 26, 1889.*

I, Moses Angel, of Jerusalem, a citizen of the United States, in the province of Palestine, Turkish dominion, do solemnly swear and declare as follows:

That on the 21st of November, 1889, Kalil Lorenzo, the Turkish tax collector, came to my house with soldiers and opened my door with force and demanded taxes for two years and a half, or if not paid he would arrest me.

I respectfully refused it, and I claimed that there was only 1 year's taxes due, and I shut the door and bolted it. But, as he was trying to force it open, I opened, my window and told him to go to my consul, and that I would see him there, but he said that he did not care for my consul. I then told him that if he would try to break my door I would shoot through it. So he left my house threatening to arrest me in the street. I then went direct to your office and laid my complaint before you. And as I was leaving your office on my way home I was attacked by the same man with three soldiers nearly before the United States consulate, and I was brutally assaulted without any provocation, and was forcibly dragged by my neck, without any mercy, through the public thoroughfare in Jerusalem, and I was hastened and beaten about a quarter of a mile. When they turned down the dark butcher street I was beaten again, and as I was fainting against the wall I was wounded by one of the soldiers in the leg—the wound which you saw at the time, and as I have explained to you in my petition of the 21st of November. At the same time a Turkish officer caught hold of my arm and dragged me away from the wall. Just then I saw your dragoman and cavass come up. Your dragoman and cavass laid their hands upon me and told the soldiers to leave me alone, and that they had no right to arrest me. And I solemnly believe my life would have been sacrificed had not the United States interpreter and guard interfered. The soldiers replied that they must take me to the Turkish court. So your dragoman and cavass were obliged to go with me to the Turkish court, against their will. And when

we came there your dragoman went in to the pasha, and after staying with the pasha about an hour's time he brought out to me 8 napoleons, and told me the pasha had given me the 8 napoleons to pay my taxes, but I at once refused it and protested against it. But, in spite of me, it was paid to the tax collector. I again protested against paying it for two reasons: for one reason, the money is not mine, it belongs to the pasha; and the second, I do not owe the amount they claim, and I can afford to pay the taxes myself. So, dear sir, this is my affidavit; and I claim of the Turkish Government a compensation for my disgrace and assault; for unlawfully arresting me, and the injustice done me by the Turkish Government, to the amount of (\$5,000).

MOSES ANGEL.

Affidavit of Shalom Kanstoroom.

JERUSALEM, December 26, 1889.

I, Shalom Kanstoroom, at Jerusalem, citizen of the United States, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the morning of the 20th of November 1889, I was at Mr. Angel's house when the Turkish tax collector came with a book in his hand and claimed 2½ years' taxes. Mr. Angel refused to pay it on the ground that he did not owe so much money, and he said: "If you will not pay it I will come here to-morrow morning with soldiers and lock you up. I will not go to your consul." And the next morning I was at Mr. Angel's house when he came again with soldiers and forced open the door. And after Mr. Angel closed it he tried to break it open and afterwards went away threatening to arrest him in the street.

SHALOM KANSTOROOM.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Shalom Kanstoroom is his true and genuine signature, made and acknowledged in my presence, and that the said Shalom Kanstoroom is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of Moses Baruch.

JERUSALEM, December 26, 1889.

I, Moses Baruch, of Jerusalem, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the 21st of November, 1889, I saw Mr. Angel being brutally and forcibly dragged through the public street by Turkish soldiers, and the Turkish tax collector was walking behind them.

MOSES BARUCH.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States, do hereby certify that the signature of Moses Baruch is his true and genuine signature, made and acknowledged in my presence, and that the said Moses Baruch is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of H. L. Friedman.

JERUSALEM, December 26, 1889.

I, Hirsch Leib Friedman, of Jerusalem, American citizen, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the 21st of November, 1889, as I was standing before my door, I saw Mr. Angel being dragged and hastened past by Turkish soldiers. I also saw the Turkish tax collector strike Mr. Angel on the neck and tell him to hurry on.

H. L. FRIEDMAN.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Hirsch Leib Friedman is his true and genuine signature, made and acknowledged in my presence, and that the said Hirsch Leib Friedman is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of Macus Scharagie.

JERUSALEM, December 26, 1889.

I, Macus Scharagie, at Jerusalem, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on November 21, 1889, I saw a Turkish soldier dragging Mr. Angel and holding him with one hand at the back of the neck and with the other hand he was holding Mr. Angel by the side, and as he was pushing him along he knocked Mr. Angel's head against my cheek and knocked one of my teeth out, as I was passing along. And as I was walking on I saw the American dragoman and cavass coming after them.

MACUS SCHARAGIE.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Macus Scharagie is his true and genuine signature, made and acknowledged in my presence, and that the said Macus Scharagie is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of Yeheal Hafus.

JERUSALEM, December 26, 1889.

I, Yeheal Hafus, of Jerusalem, in the province of Palestine, Turkish dominions, do solemnly affirm and declare that on the 21st of November, 1889, I saw Mr. Angel being brutally and forcibly dragged through the public street by Turkish soldiers, and the Turkish tax collector was walking behind them.

YEHEAL HAFUS.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Yeheal Hafus is his true and genuine signature, made and acknowledged in my presence, and that the said Yeheal Hafus is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of Shalom Kanstoroom.

JERUSALEM, December 27, 1889.

I, Shalom Kanstoroom, of Jerusalem, United States citizen, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the 25th of November, 1889, I was attacked by the Turkish tax collector inside the Jaffa gate, and was forcibly arrested by the collector and his soldiers. When I was as far as nearly half the way, I was met by the American dragoman and cavass; then I was left off. So I demand damage for the unlawful arrest and injustice done to me in the open thoroughfare in Jerusalem to the amount of \$5,000.

Digitized by SHALOM KANSTOROOM.

Affidavit of Moses Vazitezki.

JERUSALEM, January 2, 1890.

I, Moses Vazitezki, a Turkish citizen, of Jerusalem, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the 25th of November, 1889, I saw Shalom Kanstoroom being forcibly arrested by the Turkish tax collector and three Turkish soldiers. One of them held him by his hand and the other pushed him at the back.

MOSES VAZITEZKI.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Moses Vazitezki is his true and genuine signature, made and acknowledged in my presence, and that the said Moses Vazitezki is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of Mozdeci Eberstein.

JERUSALEM, January 2, 1890.

I, Mozdeci Eberstein, Turkish citizen of Jerusalem, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the 25th day of November, 1889, I saw Shalom Kanstoroom being forcibly arrested by the Turkish tax collector and three Turkish soldiers. One of them held him by his hand and another pushed him at the back.

MOZDECI EBERSTEIN.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Mozdeci Eberstein is his true and genuine signature, made and acknowledged in my presence, and that the said Mozdeci Eberstein is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem this day and year next above written and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

Affidavit of Hirsh Kanstoroom.

JERUSALEM, January 2, 1890.

I, Hirsh Kanstoroom, of Jerusalem, in the province of Palestine, Turkish dominions, do solemnly swear and declare that on the 25th of November, 1889, I saw Shalom Kanstoroom being forcibly arrested by the Turkish tax collector and three Turkish soldiers. One of them held him by his hand and another pushed him at the back.

H. KANSTOROOM.

UNITED STATES CONSULATE,
Jerusalem, January 2, 1890.

I, Henry Gillman, consul of the United States at Jerusalem, do hereby certify that the signature of Hirsh Kanstoroom is his true and genuine signature, made and acknowledged in my presence, and that the said Hirsh Kanstoroom is personally known to me.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Jerusalem, this day and year next above written, and of the independence of the United States the one hundred and fourteenth.

[L. S.]

HENRY GILLMAN,
Consul.

[Inclosure 6 in No. 99.]

No. 27.]

*Mr. Hirsch to Said Pasha.*LEGATION OF THE UNITED STATES,
Constantinople, March 1, 1890.

MR. MINISTER: I have the honor to bring to the attention of the Sublime Porte the cases of two American citizens residing in Jerusalem who were arrested without any warrant by Turkish soldiers, dragged through the public streets, beaten, and otherwise maltreated and wounded on the way, and finally forced to the court and prison house.

The particulars of this lamentable affair have been reported to me by the United States consul at Jerusalem, through the United States consul general at this place, and show a great disregard of treaty rights, which I do not doubt will be promptly corrected by Your Excellency.

On the 21st of November, 1889, Kalil Lorenzo, tax collector of Jerusalem, called at the house of Moses Angel, accompanied by three soldiers, and demanded the payment of 2½ years' taxes which were claimed as being due on his house. Angel refused to pay the amount claimed, stating that they could lawfully claim but 1 year's tax (of which he claims to have full proof), which he was ready to pay; upon which they attempted to forcibly enter his house, when, fearing violence, he closed and fastened his door, which they endeavored to break down. Upon his threatening them and referring them to the United States consul, they finally left, after using insulting language toward the United States consulate.

Angel, after complaining to the United States consul of the treatment received at the hands of the Turkish officials, early in the afternoon of the same day, while walking peaceably along the street, was violently seized by the same three soldiers without any warrant or other legal process, and, notwithstanding his protest, as well as such slight resistance as he could offer, was arrested by them and dragged to the court and prison house. Instead of being taken before his consul, as he requested while being dragged along, he was repeatedly struck and beaten and otherwise maltreated and wounded in the leg, and was in a fainting condition, with his life seemingly in danger, when the interpreter and guard of the United States consul appeared on the scene protesting against the outrage and demanding his release.

In defiance, however, of the United States officials, the prisoner was taken to the court and prison house, together with the United States interpreter and guard.

His Excellency Rechad Pasha, governor of Palestine, after hearing an account of the affair, immediately ordered the release of Angel, and himself paid for Angel 8 napoleons for 2 years' taxes, and on the evening of the same day, after a full and complete statement by the United States consul, His Excellency asked the consul what satisfaction would be required, promising to give the matter his full consideration the following day.

But instead of any action on the part of His Excellency in the above-mentioned case, 4 days afterwards, on November 25, a similar outrage was perpetrated on another American citizen, Shalom Kanstoroom, who was arrested on the street by three soldiers on the order of the same official, Kalil Lorenzo, under similar circumstances, without warrant, writ, or other process of law, on the charge of owing 2 years' taxes on his house.

The Turkish law provides a way in which taxes are to be collected from delinquents. It does not appear that the provisions of it were followed in these cases, but in their place brutal force was invoked.

I do not doubt that the authorities of the Ottoman Empire will admit that the proceedings were illegal; that the treatment was not justified by the circumstances; and that they will be willing to make proper reparation and so instruct the provincial authorities as to prevent recurrences of the offense.

Accept, etc.,

SOLOMON HIRSCH.

Mr. Hirsch to Mr. Blaine.

No. 104.]

LEGATION OF THE UNITED STATES,
Constantinople, March 31, 1890. (Received April 16.)

SIR: Within the last 3 years the restrictions placed upon the book trade of the American missionaries have from time to time been increased until now they have become very severe and almost threaten its very existence. The missionaries, conforming to the laws of the Empire, publish only such books as are authorized by the public censor; they print the authorization on the title-page of each volume and cause

one copy of each edition to be sealed by the minister of public instruction, which is retained by the missionaries as proof of the genuineness of the book.

It would seem that the exhaustive examination to which it is subjected before authorization is given and the care bestowed upon it, as above shown, to prevent fraud, ought to insure the book against undue and vexatious interference on the part of subordinates. Such, however, is not the case. Seizures have been made in Erzerum last autumn of books destined to the mission stations at Bitlis and Van. In this case the books were shipped from here in cases which were sealed with leaden seals of the custom-house and should not have been disturbed until they arrived at their destination.

Within a few weeks a box for Rev. G. C. Raynolds, at Van, which had been passed and sealed by the custom-house here, was opened at Trebizonde and some of the books taken and sent back here for examination, and then on reaching Erzerum was again opened and more books sent back here for examination. Other similar cases might be mentioned.

It is a serious loss and hardship to have the contents of boxes handled en route by inexperienced as well as irresponsible parties; moreover, there is no valid reason why the seal of the custom-house should not protect the boxes and contents while en route to their destination.

It was claimed by subordinate censors in the interior that, inasmuch as it had at one time happened that publications had been circulated with fraudulent authorizations printed on them, they were unable to determine which were genuine without a reëxamination, and hence these seizures.

The missionaries have never claimed or circulated an unauthorized publication as authorized and are not open to any such suspicion.

Very recent seizures at the custom-house here of authorized books destined for other points plainly indicate that there is a deeper significance to be attached to them than would appear from the excuses made by censors in the interior, and that the reasons given by the latter are not the real ones, for here, where the officially sealed copy of each authorized publication is kept, there is no ground for claiming that the books might possibly be unauthorized, notwithstanding the printed authorization on the title-page.

I have within the last few weeks had very frequent interviews with H. H., the Grand Vizier on this subject, and have strongly protested against these unnecessary annoyances and the losses arising therefrom. I found him personally very desirous of adopting some method by which further troubles of the kind might be avoided, but I thought best finally to observe to him that no method could be successful in stopping these seizures unless the principle is first laid down that an authorization once made by the proper authorities shall not be revised or revoked, for I have satisfied myself that the contents of the books form the real grounds for the seizures. Unless this is conceded by the Turkish authorities, we may be prepared for endless vexation and annoyance, for every time there is a change in the office of censor a new modification may be expected.

The matter is of the greatest importance to the missionaries, as the existence of their book trade seems to be depending upon the result. I will give it the close and constant attention which its importance merits.

A statement on the subject, made by Rev. H. O. Dwight, is herewith inclosed for the information of the Department.

I have, etc.,
P R 90—48

SOLOMAN HIRSCH,

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[Inclosure in No. 104.]

Memorandum of interferences with the book trade of Americans in Turkey.

The American societies engaged in the book trade in Turkey are the American Bible Society, the American Board of Commissioners for Foreign Missions (Boston), and the Presbyterian Board of Foreign Missions (New York). The American Tract Society also makes grants of funds for the missionaries for the publication of tracts. These societies have carried on the book business in the Turkish Empire since the year 1834, when the first named of the two missionary societies transferred to Beirut the printing press which it had established at Malta in 1822. Their publishing houses are now situated at Constantinople and at Beirut. The value of the stock and manufacturing plant of these societies in Turkey is estimated at about \$500,000.

The American Bible Society prints the Holy Scriptures of the Old and the New Testaments in all of the various languages of the Empire, and keeps on sale, also, a stock of the same in all European languages. The publishing committee of the mission of the American board, established at the Bible House, in Constantinople, prints the Turkish, Armeno-Turkish, Græco-Turkish, Armenian, Greek, and Bulgarian religious and devotional books and tracts and text books for schools. The American press at Beirut, under the charge of the missionaries of the Presbyterian Board of Missions, prints in Arabic religious and devotional books and tracts, school books and scientific works, and general literature of a high class. Both of the missionary societies also publish religious family newspapers with extensive subscription lists.

The books published are transported at the expense of the societies to the various parts of the Empire, so that they are sold everywhere by agents of the societies at the catalogue price of each work.

At the beginning of this book trade no specific law regulated the publication of books in Turkey. In fact, at that time books were rarely published, unless by the Government itself. All books were, however, subjected to examination at custom-houses, and were authorized for publication by the seal of the custom-house censor. In 1874 a law of the press was put in force, under which no book can be published in Turkey without the authorization of the ministry of public instruction. This authorization is obtained by submission of the manuscript with a request for permission to print it. After the book is printed it can not be published without a second examination for the purpose of verifying its conformity to the manuscript as authorized. Every book is required to bear on its title-page a statement of the fact that it is authorized; and, under a regulation issued in 1882, this statement must give the date and number of the permit of the department of public instruction. A regulation was adopted in 1883 expressly applying to the books issued by the American societies, by which all books from their presses must indicate on the title-page the fact that they are published by a Bible or missionary society, as the case may be. The works issued from these presses have always conformed to the laws in force at the time of issue. Nevertheless, the trade of the American societies has long been subjected to vexatious and destructive interference (1) by the arrest, long detention, or confiscation of authorized books, and (2) by the restriction of liberty to choose the market in which the books are to be sold.

(1) The seizure of authorized books:

Within the last 3 years there has been a marked increase of restrictions upon the book trade. Book censors have been appointed in all the provinces, whose duty it is to prevent the circulation of dangerous books. These censors have their attention chiefly directed to the books offered for sale among the Christian populations of the Empire, and especially (as some of them have been frank enough to say) to those books which encourage the people to think. The power of these book censors to injure the business of dealers in books, as well as the injustice actually suffered at their hands, will be readily understood by a few illustrations of their narrowness, ignorance, and incompetence as a class.

One of these, a Mohammedan passing upon a Christian book written in a language that Mohammedan in Turkey can not read, condemned it on the ground that he had already permitted the Bible, and that is as much as any man ought to ask. Another in similar circumstances condemned a work which treated of Christian doctrine as calculated to stir up strife, for a Mohammedan might perhaps see it and be stirred thereby to attack the Christian for believing such things. Another objects to the Christian hymn "Am I a soldier of the Cross?" as revolutionary, and so suppresses in his province the hymn book used by all the Protestant churches in the Empire. Another objects to a Sunday-school book that it contains the word *Fatherland*, which word will recall to Armenians the name of Armenia, and that name is a forbidden one. Another for the same reason condemns a physical geography which gives the name Armenia in a list of copper mines mentioned by Strabo as worked in his time. Another suppresses a child's book of Bible pictures because it contains a picture of Mt. Ararat. Another has confiscated a part of a shipment of Bibles as dangerous and has released the remainder as innocuous, not being able to perceive that all the copies are identical.

The results of the incompetence of these censors are no less extraordinary. In many cases they pass without question the nauseous mass of immoral French romances which are issued in translations by the native publishing houses, but regard as necessarily dangerous schoolbooks, religious books, and other works of a more or less solid character. Hence, as a purely precautionary measure, they will arrest the whole stock of an agent of the American societies while they send on to Constantinople to learn if the authorization of the department is really intended to permit the circulation of the books. This involves long delay. In one such case, where books of one of the American societies were seized by the censor in 1889 at Erzerum, they are still in custody at the time of this writing, 7 months later, the censor not having been able as yet to learn whether the authorization printed on the title page is authentic. Yet the time usually occupied by the post in the journey from Erzerum to Constantinople is from 8 to 10 days. Similar cases of arbitrary interruption of our business are frequent.

The department of public instruction condones such interferences with the trade of the American societies by claiming that the provincial officials can not certainly know, without sending the books to Constantinople, that their authorization is genuine.

The fallacy of such an argument is evident when it is remembered that the books are carefully examined by the censor in the custom-house in Constantinople before shipment; and that the boxes are there securely sealed for the express purpose that provincial censors may, on seeing the seal of the custom-house intact, be assured that the books in the box are authentically authorized books. But more than this, the American societies are publishing houses long established in Turkey and having permanent investments of a considerable amount within the Turkish Empire. The Ottoman Government has therefore the power to hold them rigidly to account, were they to issue illegal publications. When these societies publish a book stating on the title-page over their own imprint that for this publication they hold a permit of a given date and number, they offer for the truth of the statement a guaranty commensurate in value with the value of their investments in Turkey; for those investments must necessarily be sacrificed if they were to publish a single unauthorized book with forgery of the authorization of the department of public instruction. The official who feels anxiety concerning the authenticity of the authorization of a book published by one of the American societies can allay all reasonable doubt by requiring the local agent of the society to certify that the book is one for which the society is actually responsible. Such a certificate ought to secure the books from arrest, for under the circumstances the probabilities are overwhelmingly against the supposition that the printed declaration in the books will turn out to be unauthentic. At the same time, if the official still doubts, he can send a copy of the book to the department for verification, sure that if the permit be not authentic the parties responsible are always at hand for punishment.

This being the case, the course now pursued by the officials of the department of public instruction has the effect on the mind of being based on a will to hamper the Americans in their book trade rather than upon any necessity of police administration.

Furthermore, these censors claim the right, each for himself, to revise, and, if he sees fit, revoke the authorization given by the central Government and to confiscate the books belonging to the American societies exactly as if they were printed without permission. The assertion of such a claim results in such abuses as the following:

Books of the American societies duly authorized and sold freely in all parts of Constantinople have been seized on being taken into the custom-house in that city for shipment to other parts of the Empire or to foreign lands. The reason of this is simply that the officials in the custom-house do not care to observe the authorization that is respected on the outside of the custom-house. Books sold freely in one province of the Empire are instantly confiscated on being taken into the adjoining province, because the censor in that province differs in view from his colleague. And books that have passed the ordeal of the Constantinople custom-house, and have been packed in boxes sealed with the official leaden seal, and have been shipped to a distant inland city have been opened and overhauled by any censor that felt a curiosity to see the contents of the boxes, although they were destined for a city entirely outside of his jurisdiction. And in some such cases these amateur censors by the wayside have taken the liberty to confiscate books that seemed dangerous to their refined tastes. Again, other censors, not deeming it needful to inquire into the authenticity of the permits of the books of the American societies, have torn out some pages of whose contents they did not approve, and then have suffered the mutilated and ruined books to go free. And in one place the local dignitaries, to emphasize their right of revising the action of the ministry at Constantinople, have torn out the title-page containing the official authorization, and have then confiscated the books as unauthorized, or at least improper in their view to be allowed circulation.

The department of public instruction at Constantinople gives encouragement to these acts of spoliation upon the property of the American societies by refusing to order that its own authorizations be regarded, by taking into serious consideration the proposals of the petty censors of the provinces for the suppression of our authorized books, and by actually claiming for itself the right to establish from time to time new canons of censorship and then to confiscate all books which it had authorized before the new standard was devised. A notable instance of the latter class of wrongs is the case of the primary geography published by the American mission at Constantinople in 1881 with the authorization of the department. This book has the name Armenia in one of its maps, and the department now claims that it has decided not to authorize the use of this name, and that it may therefore confiscate the books, although it is admitted that the use of the name was authorized when the maps were made. Its seizure of these books wherever found, whether in the hands of private persons or in the hands of the book agents, has destroyed the value of the geography as an article of merchandise. In other cases its officials delay for months to order the release of books illegally seized while it considers the question of entirely suppressing the sale of the books. In one case the delay extended to the period of 9 months, during all of which time the agent of the society was under arrest at a remote town in Asia Minor waiting to learn whether, besides the loss of his books, he was to suffer punishment for having been found selling them, although published under the authorization of the department.

(2) Restrictions of the right to choose the market in which the books of the societies are to be sold:

The usage of these societies is to establish book depots at central points and thence to send out traveling agents to offer the books for sale in the country districts. This practice has been followed for years without evidence of any injury to any legitimate interest of the Ottoman Government. But in many parts of the Empire the book agents are arrested whenever they appear in villages or country districts. In the course of the last month (February) an American missionary was thus arrested for having in his possession twelve copies of books authorized by the Government, and which it was supposed that he might try to sell. He was held in arrest for 4 days in violation of the law and of the treaties, and although finally released with an apology, he was informed that the books could be sold only in towns, not in country districts. In the province of Erzroom the customers on whom depends the sale of the books most in demand live principally in the large villages. But the authorities undertake to hold the position that they have a right to restrict sales in these villages notwithstanding the authorization of the books.

From what has been said it will be seen that the interference complained of is due to the adoption by the authorities of the following principles of action in regard to the books of the American societies:

(a) Any official who doubts the authenticity of the authorization of a book may provisionally confiscate it.

(b) Books authorized by the department of public instruction may at any time be confiscated by a censor who chooses to revoke or ignore the authorization.

(c) The department of public instruction may confiscate books which it has itself authorized.

(d) Officials may designate the localities where authorized books are to be sold, or may entirely prohibit sales.

These principles, of the working of which examples have been given above, we hold to be contrary to good sense and to equity, to be demanded by no legitimate interest of the Ottoman Empire, and to threaten the extinction of the long-established book trade of those American societies. It is therefore hoped that the United States Government will take such measures as may seem fit to bring about an amelioration of the conditions under which these societies suffer needless and heavy losses every year. Perhaps the admission by the Ottoman Government of the following principles would cover the needs of the case:

(a) Books authorized by the department of public instruction are everywhere free from seizure.

(b) Books published by a responsible publishing house and bearing on the title-page the statement of the number and date of authorization are free from arrest or confiscation, unless the statement has been proved to be false.

(c) No restrictions other than those placed on other traffic are to be placed on the traffic in authorized books.

Without the intervention of the United States Government to secure some relief, the American societies may be expected to lose their business as book publishers and a great part of the capital invested in this business in Turkey.

HENRY O. DWIGHT,
Missionary of the American Board.

BIBLE HOUSE, CONSTANTINOPLE, March 20, 1890.

Mr. Blaine to Mr. Hirsch.

No. 76.]

DEPARTMENT OF STATE,
Washington, April 9, 1890.

SIR: Your dispatch No. 99 of the 19th ultimo has been received. It recites the case of the alleged illegal arrest and maltreatment of Moses Angel and Shalom Kanstoroom, citizens of the United States, by the authorities of Jerusalem, on the ground, it is said, of delinquency in the payment of their taxes on real estate owned by them, and, as asserted by the governor of Jerusalem, of abusive and threatening conduct on the part of the alleged delinquents.

These cases were brought to the knowledge of the Department by a report from the consul at Jerusalem, No. 147, dated January 28, 1890. Your present report confirms all that was then related by Mr. Gillman, and is, moreover, accompanied by a number of affidavits of disinterested witnesses, who testify to the brutality of the treatment suffered by these American citizens at the hands of the Turkish soldiery. Mr. Gillman's action in seeking redress has already had the Department's approval.

There can be no doubt that the forcible attempt, under pretense of collecting taxes, to enter Mr. Angel's house by battering down his door was unlawful under Turkish law and under our treaty stipulations with the Ottoman Porte. The protocol of August 11, 1874, respecting the right of foreigners to hold real estate in the Ottoman Empire proclaims that—

The residence of foreigners is inviolable * * * in conformity with the treaties, and the agents of the public force can not enter it without the assistance of the consul or of the delegate of the consul of the power on which the foreigner depends.

Even, therefore, had the proceedings for the collection of unpaid taxes from Angel followed due course of suit and a judgment been reached by levying upon his property for its satisfaction, it could not have been executed on the premises without the intervention of the consul.

There appears, however, to have been no warrant of law at any stage of the proceedings against Mr. Angel, and therefore the outrage committed in the attempt to break into his residence is a serious breach of treaty rights, for which due atonement should be sought.

The arrest of Mr. Angel by the soldiery did not take place until some time after the attack upon his house. It would seem to be asserted that he was arrested, not as a tax delinquent, but for using abusive language and threats of armed resistance to the authorities and for drawing a revolver. From the somewhat conflicting statements before the Department it is not clear whether these acts are charged against Mr. Angel at the time of the attempt to break into his house or at the time of his subsequent arrest. It is not evident how he could have resisted arrest in the manner stated, unless the arrest were attempted for some other cause. But, inasmuch as lawful arrest for any cause requires the intervention of the consul to afford it, the arrest of Mr. Angel by the soldiery was as unlawful as the attack on his premises, and it matters little when he may have resisted, by speech or deed, the unlawful acts of the authorities towards him. In either case the course of the authorities towards Mr. Angel originated in wrongdoing and was violative of treaty rights.

There seems to be no allegation whatever to justify the arrest and maltreatment of Mr. Kanstoroom. No precedent proceedings against him or allegation of resistance on his part to the authority of law

appear. That he was wrongfully seized by force for alleged tax delinquency appears to be uncontroverted.

It is not doubted that, with your usual prudence, you will await full ascertainment of the facts of these cases before taking definite action; but I must say that very positive evidence to offset the facts so far known will be needed to exempt the Turkish authorities from a just demand for reparation.

Whether, in fact, Messrs. Angel and Kanstoroom are liable for unpaid taxes on real property is another matter, to follow its due course according to treaty and law. In this relation reference may be made to Mr. Gillman's letter of November 29, 1889, addressed to the governor, Rechad Pasha, and in particular to his claim that Mr. Angel's case is properly triable before the consular court. The "two bills of summons" in Angel's name are not before the Department, and it is not known whether the proceedings were criminal or for nonpayment of taxes. If the latter, the protocol of 1874 determines the subjection of the foreign holder of real property to the operation of the Turkish law, and prescribes the course of proceedings with due intervention of the delinquent's consul. This presumed, however, that the summons was in fact issued on the criminal charge above referred to, and in that case Mr. Gillman may be upheld in denying any Turkish claim of exclusive jurisdiction.

I am, etc.,

JAMES G. BLAINE.

Mr. Hirsch to Mr. Blaine.

No. 113.]

LEGATION OF THE UNITED STATES,
Constantinople, April 18, 1890. (Received May 5.)

SIR: I have the honor to inclose herewith a copy (in translation) of a note from the Sublime Porte of 7th instant, in reply to note from this legation of December 18 last, in the matter of Moussa Bey.

For the first time during all the years of the correspondence on this subject, this legation is informed that an "ordonnance de non lieu" has been entered in favor of Moussa Bey by the examining magistrate and chamber of accusation. This, if not set aside, will permit him to go free.

The statements put forward by the minister of justice, which form the basis of the note of the Sublime Porte, are by no means an answer to the demands made by this legation. The communications of this legation on the subject have largely partaken of the nature of protests against the very actions and statements quoted by him.

The Ottoman Government has assured this legation repeatedly that the criminal would be brought to justice, but it would now seem that these assurances are not to be made good. The statements of subordinate local officials, who for reasons best known to themselves have rather screened than sought the culprit, whose irregular proceedings have in one instance at least been admitted by the Sublime Porte, and whose erroneous statements have been the subjects of repeated protests from this legation, appear to have been accepted by the Ottoman Government without sufficient serious investigation.

The identification by Mr. Knapp of Moussa is not admitted by the minister of justice, although it is known, beyond a shadow of a doubt, that it was complete. The officials, who at the time distorted Mr.

Knapp's evidence into making him say that Moussa resembled the assailant, were afterwards disciplined by the authorities and "put under judgment," and the legation was assured the culprit would be brought to justice.

A claim of an alibi is now made in behalf of Moussa for the first time. We certainly can not admit the claim, as no proof of it has ever been made on any public trial.

The details of the attack were notorious throughout the whole region of country where it was made, and never before did we have even an intimation that Moussa claimed not to have "been there."

It is pointed out in the note that a way is open to Messrs. Knapp and Reynolds to bring a suit against Moussa Bey or against the court officials at Bitlis who conducted the examination in 1883, but it seems to me that the only proposition which the United States Government has anything to do with in this case is our demand that the promise by the Sublime Porte for the punishment of Moussa Bey be redeemed.

We are without information thus far of the date of the "ordonnance de non lieu." In view of the long correspondence and the many promises made us, the date, when ascertained, will prove to be of the greatest interest as well as importance.

The Grand Vizier, as well as the minister of foreign affairs, have ever been willing and even desirous to have Moussa brought to punishment. I called on them immediately after receiving the above-mentioned note, and in the most positive terms protested against the findings of the department of justice, and at the same time stated that the Government of the United States looked to the Ottoman Government to make good its promises for the punishment of Moussa Bey, notwithstanding the opinion of the minister of justice, and furthermore demanded that until I could communicate with my Government Moussa Bey be kept here at Constantinople by the authorities, and not be permitted to return home.

I am quite convinced, from what transpired during the interview, that only the minister of justice stands between Moussa and deserved punishment; and as long as he is able, as heretofore he has been, to convince the Sultan that Moussa is the injured man, just so long shall we find it very difficult, if not impossible, to have inflicted on him the punishment which he deserves, and which, for the sake of our citizens throughout this Empire, he ought to receive.

I have not as yet had the opportunity of laying before His Majesty the Sultan the justice of our demand (see my dispatch No. 88, February 22 last), but am ready at any moment to respond to an appointment from the palace for an audience.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 113.—Translation.]

Said Pasha to Mr. Hirsch.

SUBLIME PORTE, April 7, 1890.

*SIR: I have had the honor to receive the note that the legation of the United States kindly addressed to me on the 18th of December last, No. 17, with regard to the affair of Rev. Mr. Knapp and Dr. Reynolds.

The department of justice, to which I communicated this document, informs me, in reply, that it has once more examined the documents on this subject and from that examination the following appears:

The Rev. Mr. Knapp and Dr. Reynolds, who had spent the night of the 3d of May, 1299 (1883), at Polo Kéhias, in a village near Bitlis, went on the 11th of the same

month and complained of having been attacked on the 4th in the neighborhood of Ouzouf-Bourni by three Kurds, whom they declared not to know.

On the 18th and 19th of May they were confronted with four Kurds, arrested in consequence of this complaint, but Dr. Reynolds did not recognize them and Rev. Mr. Knapp said that he had only suspicions on one of them, the so-called Hatche. The inquest made having, however, proved that these four individuals were, on the day of the attack, occupied in cutting wood at Mount Hatchreek, they had to be released.

Later on the legation of the United States, it is true, accused Moussa Bey and his companions, Cherifoglon Hassan and Osman, of being the authors of this aggressive act, but it was ascertained that there were no persons in the village by the names of Cherifoglon Hassan and Osman.

On the 10th of October of the same year the Rev. Mr. Knapp, having seen Moussa Bey with some other persons, said that he resembled the Kurd who had wounded Dr. Reynolds with a sword; and the legation of the United States of America, taking its position on this simple assertion, declares that Moussa Bey is the author of the aggression, and that his identity has been established in an evident manner.

It is, however, to be observed that the Rev. Mr. Knapp, who was on the 3d of May, 1883, for 2 hours with Moussa Bey at Polo Kéhias, should have recognized him at once at the time of the assault on the day after; not having recognized him then, as appears from his first evidence, his declaration of several months subsequent loses all its value.

Notwithstanding that, the judiciary authorities did not fail to institute an inquest on this subject, and it has been proved by the sworn depositions of several persons that Moussa Bey had not left his house on the day of the assault.

In short, the culpability of Moussa Bey in this affair having not been legally established, a verdict of *nol. pros.* was issued in his favor by the examining magistrate and by the chamber of accusations. The interested parties having been duly informed, they are at liberty to sue the judges, and, although a long delay has since passed, they can still to-day resort to that means, as in the same way they are always free to sue Moussa once more before the competent tribunal in case they are furnished with new evidence against him.

I am persuaded that Your Excellency, when you have cognizance of what precedes, will kindly agree that the ministry of justice can not inflict in an administrative way any punishment whatever on a person the culpability of whom could not be legally established.

Please accept, etc.,

Said.

Mr. Blaine to Mr. Hirsch.

No. 80.]

DEPARTMENT OF STATE,
Washington, April 19, 1890.

SIR: Your No. 104 of the 31st ultimo and its inclosure relative to the serious interferences with the book trade of the American missionaries in various parts of Turkey and under the most trifling pretexts have been carefully read. Your representations to the Sublime Porte in the matter have been judicious, and the Department will rely upon your strenuous efforts to secure the complete protection of this legitimate American interest.

I am, etc.,

JAMES G. BLAINE.

Mr. Hirsch to Mr. Blaine.

No. 118.]

LEGATION OF THE UNITED STATES,
Constantinople, April 25, 1890. (Received May 8.)

SIR: Nearly a year ago two American missionaries, Rev. Mr. McDowell and Dr. Wishard, were traveling through the mountains of Boshkale, near the Persian frontier, when they were enticed into a se-

cluded valley and robbed by some of the Nestorian mountaineers. They made a statement of the case to the legation at the time, and the matter was brought to the attention of the Sublime Porte by Mr. King, chargé, as reported to you in his dispatch No. 10, July 30, 1889.

The missionaries, although living in Persia, have had schools on the Turkish side of the frontier in the district of Gawar for many years, and, as they have to go and come every year, it is quite important to them to have the wrong which they have suffered redressed. It is very important to remove from the minds of the people there the idea of impunity, and, inasmuch as this legation has not had any response to the complaint made last July, I addressed anew a note to the Sublime Porte on the subject, a copy of which is herewith inclosed.

In delivering it to His Excellency the minister of foreign affairs, yesterday, I called his attention to the fact that these three robbers, whose names are given, are leading men in their tribe, a chief, a priest, and a deacon; that Messrs. Wishard and McDowell are prepared with testimony to fasten the crime on them; that for the sake of justice (as well as a measure for future protection) we ask for their arrest and trial, and inasmuch as they often come to Julamerk on business, I asked that the governor there be ordered to arrest them on their first visit to the place. His Excellency promised to issue the necessary orders immediately, and I hope that as soon as the proper officers in that outlying district can be communicated with the necessary steps will be taken for the apprehension of the guilty parties.

In a subsequent interview with His Highness the Grand Vizier on the same subject I was given assurances that the matter would be promptly dealt with.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 118.]

Mr. Hirsch to Said Pasha.

No. 30.]

LEGATION OF THE UNITED STATES,
Constantinople, April 24, 1890.

MR. MINISTER: I desire to call the attention of Your Excellency to note No. 4 of July 25, 1889, sent you by Mr. King, concerning the robbery of Dr. Wishard and Mr. McDowell, to which I have received no reply.

I have good reasons for stating that the robbers were Malik Baboo, Kasha Yakamas, and Shamasha Heydoo, all of Takhoma, which is under the control of the governor of Julamerk, in the province of Hekkiari.

I again respectfully request Your Excellency to direct the governor to arrest these men, who often go to Julamerk on business, and have them punished and the stolen property returned to its owners.

Dr. Wishard and Mr. McDowell will be prepared to present the evidence against them, if arrested and brought to trial.

Accept, etc.,

SOLOMON HIRSCH.

Mr. Hirsch to Mr. Blaine.

No. 123.]

LEGATION OF THE UNITED STATES,
Constantinople, May 3, 1890. (Received May 19.)

SIR: I inclose a copy of my note to the Porte about Moussa Bey, referred to at the close of my No. 113 of 18th ultimo. In this note I have endeavored to answer the points advanced by the minister of justice, on

whose report the minister of foreign affairs based his note. I did not dwell at any length on the "ordonnance de non lieu," because I was unable to find the date of it, which I am yet trying to obtain.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 123.]

Mr. Hirsch to Said Pasha.

No. 33.]

LEGATION OF THE UNITED STATES,
Constantinople, May 1, 1890.

MR. MINISTER: I have the honor to acknowledge the receipt of Your Excellency's note of the 7th ultimo, in reply to the note of this legation, No. 17, of December 13, 1889, in the matter of Moussa Bey, whose punishment for outrages against American citizens has at various times during the last 7 years been demanded by the United States Government.

The reply of Your Excellency is based upon the report of the minister of justice, to whom the note of this legation had been referred, and who, after "once more" examining the documents on the subject, has reported his conclusions to Your Excellency, and as the result of such report I am now informed that an "ordonnance de non lieu" has been entered in the case by the examining magistrate and the chamber of accusation.

It is with no small degree of surprise that this legation for the first time now receives the information of the entry of the "ordonnance de non lieu."

The action, as reported by the minister of justice, seems to be based on the following:

I. On the 18th and 19th of May, 1883, Messrs. Knapp and Reynolds were confronted with four Kurds who had been arrested in consequence of the complaint made, and failed to identify these four men as their assailants.

It would seem from this that His Excellency the minister of justice treated this confrontation in a serious manner, but the slightest examination would have shown the facts to be that the four Kurds in question were furnished for the occasion by Mirza Bey, the father of Moussa Bey; that they were not the assailants, and, of course, could not be identified by Knapp and Reynolds.

II. In October, 1883, Mr. Knapp was confronted with Moussa at Bitlis and is reported to have stated that he resembled the Kurd who had wounded Dr. Reynolds with his sword.

This statement of the case is the same as made by the local officers in 1883, and was immediately declared false by the United States legation.

The Sublime Porte promised an investigation, and afterwards informed the legation that the officials in question had been found guilty of grave irregularities in the case.

His Excellency Assim Pasha to Mr. Wallace, January 12, 1885:

"I have the honor to inform Your Excellency that the inquest made by the ministry of justice having revealed certain irregularities committed by the examining magistrate and the deputy imperial prosecutor, these two magistrates have been put under judgment."

Nevertheless, the falsified statement is still treated as correct by the minister of justice.

When Mr. Knapp was summoned by the authorities of Bitlis to identify his assailant he was confronted with a number of men and unhesitatingly pointed out one as the assailant of Dr. Reynolds; he did not even know the name of the man he had identified until he was afterwards told who the man was. It was Moussa Bey, who wore for that occasion a dress of a different style from his ordinary village dress.

An impartial examination would have brought out very clearly the positive nature of Mr. Knapp's testimony and the deliberate purpose of the local officials to suppress it.

III. It is claimed that Mr. Knapp was with Moussa at Polo Kéhi's for 2 hours on May 3, 1883, and should have recognized him at once at the time of the assault on the following day; and inasmuch as he did not recognize him then as it appears from his first evidence his declaration several months subsequent loses all its value.

This is an attempt to undermine the unimpeachable testimony of Mr. Knapp, and is now for the first time offered to this legation. The facts are that Moussa Bey was at the house in which Messrs. Knapp and Reynolds were staying that evening; that he was not with Mr. Knapp, but that he stood in a group of Kurds in a dark room; that the Americans had no communication with him.

IV. And in further attempt to impeach the testimony of Mr. Knapp, the minister of justice says:

"It has been proven by the sworn depositions of several persons that Moussa Bey had not left his house on the day of the assault."

In systems of judicial investigations with which we are acquainted such statements of alibi are without value, unless proven at a regular trial when the character of the testimony has been sharply cross-examined in open court. Since no such trial or testing of evidence has been held, this statement possesses not the slightest weight.

It appears that the Ottoman Government has accepted without sufficient serious investigation the statement of local officials, who, for reasons best known to themselves, have rather screened than sought the culprits whose irregular proceedings have been admitted by the Sublime Porte and whose erroneous statements have been the subjects of repeated protests from this legation.

We are now told by the minister of justice that the way is open for a suit to be brought against the judges, and, furthermore, that the interested parties are always free to sue Moussa Bey once more before the competent tribunal in case they are furnished with new evidence against him.

The minister of justice would have it appear by the above as if Messrs. Knapp and Reynolds had once before brought a suit against Moussa Bey which they lost. This, however, is not the fact. They never brought any suit. The Turkish Government relieved them of the necessity of opening a suit; it assured them that it would bring the criminals to justice, an assurance volunteered by the governor of Bitlis on the day when Messrs. Knapp and Reynolds were brought, bruised and wounded, into that city, and which has since then been repeated by the Sublime Porte at various times. The United States Government has nothing to do with any private suit, but only with the unfulfilled promise of the Turkish Government that Moussa Bey would be brought to punishment. We now ask that those promises be fulfilled.

I beg here, in the name of my Government, to renew the protest which I made verbally to Your Excellency against the conclusions arrived at in your note, and most earnestly demand that for the present Moussa Bey be kept here at the capital and within reach of the authorities, just as others are kept who are accused of like heinous offenses against the law, and that such punishment be inflicted on him as is commensurate with the gravity of the crime committed by him on my countrymen.

Accept, etc.,

SOLOMON HIRSCH.

Mr. Blaine to Mr. Hirsch.

No. 82.]

DEPARTMENT OF STATE,
Washington, May 6, 1890.

SIR: I transmit, for your information, a copy of a letter from the Rev. Judson Smith, of the American Board of Commissioners for Foreign Missions, in further relation to the local interference in Turkish territory with the legitimate book trade of our citizens there; also a copy of the answer made by the Department.

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1 in No. 82.]

Mr. Smith to Mr. Blaine.

AMERICAN BOARD OF COMMISSIONERS FOR FOREIGN MISSIONS,
CONGREGATIONAL HOUSE, 1 SOMERSET STREET,
Boston, May 2, 1890.

SIR: A communication recently received from Constantinople gives me information of the interference which the Turkish Government is making with the book department of our missionary work in the Turkish Empire. These interferences are of such a sort, and are so persistently followed up, as to imply a ready disposition, if not a fixed purpose, to annoy our laborers and hamper our work, contrary to the spirit, if not also to the letter, of the treaty regulations under which our missionary work in the Turkish Empire has long been carried on.

The books which are prepared at Constantinople for the varied uses of the mission in different parts of the Empire are detained at the various custom-houses distributed throughout the Empire upon the most frivolous pretext, and apparently at the discretion of local officials, the Central Government seeming to ignore the irregularity or to wink at it. Books that have received the required authorization of the Turkish Government are thus detained from their proper destination, and the legitimate work of the missionary boards and the Bible society in the Empire is thus seriously interfered with and defeated. I am informed that the whole situation has been fully laid before Mr. Hirsch, the United States minister at Constantinople, and that he has communicated the same to the Department of State at Washington. I may therefore assume that the facts are substantially before you, and I write, not so much to detail them and set forth their character as to make them the occasion of a special appeal to our Government to give the matter thorough consideration, and within the proper limits to instruct Mr. Hirsch to see that all the rights which belong to American citizens in the Empire are fully respected by the Turkish Government and all its officials, and are effectually secured.

We understand very well that our Government can not directly undertake the furtherance of the missionary work which we are carrying on in Turkey as such. We only desire that American citizens who are engaged in this work, and to whose definite rights and privileges have been assured by treaty stipulation, shall not wantonly be deprived of these rights by the unlawful and unauthorized action of officials in the Turkish Empire. The time has come when our Government may well take a tone of dignity and firmness in dealing with the Turkish Government in the matter, and make known too clearly to be mistaken its purpose to insist upon and to secure to its citizens within the limits of the Turkish Empire all the rights which have been enjoyed by the most favored nation, and which have been included in the treaty stipulations in the past. Such a tone will certainly command respect and will in due time secure the end desired, and we are fully assured that your personal judgment will heartily fall in with your official expressions upon the subject.

With great respect, etc.,

JUDSON SMITH.

[Inclosure 2 in No. 82.]

Mr. Wharton to Mr. Smith.

DEPARTMENT OF STATE,
Washington, May 6, 1890.

SIR: Your letter of the 2d instant is received. The dispatches of Mr. Hirsch have assured the Department that he is making all proper efforts to remove the obstacle placed in the way of the legitimate book trade of American citizens in Turkey, and his efforts will continue to receive approval. A copy of your letter will be sent to him.

I am, etc.,

WILLIAM F. WHARTON,
Assistant Secretary.

Mr. Blaine to Mr. Hirsch.

No. 85.]

DEPARTMENT OF STATE,
Washington, May 8, 1890.

SIR: I have received your No. 113 of the 18th ultimo, and the note therewith, communicating the conclusions of the Ottoman department of justice in the matter of the charge brought against Moussa Bey of an assault on Rev. Mr. Knapp and Dr. Reynolds in May, 1883, which are that Moussa is not guilty.

The whole conduct of this question on the part of the Turkish Government has been most disheartening, and not calculated to quicken a perception of the guaranties of justice and protection to American citizens which the Ottoman administration of law is asserted to afford.

Respect for the administration of law can not be maintained unless its verdicts flow clearly from the principles of justice and are thus com-

mended to acceptance; unfortunately, the course of the judicial branch in this case has been so perverted and the efforts of its ministers have been so conspicuously put forth to screen native criminals as to inspire little confidence in the ability of the Turkish Government to do full right to American citizens who have been wronged by the lawless acts of native authorities.

Your promised reply to the note of the Sublime Porte is awaited.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Hirsch.

No. 87.]

DEPARTMENT OF STATE,
Washington, May 13, 1890.

SIR: I have received your No. 118 of the 25th ultimo, in further reference to the alleged robbery, about 1 year ago, of the American missionaries Rev. Mr. McDowell and Dr. Wishard by three Nestorian mountaineers, whose names are given in your note to the Sublime Porte of the 24th ultimo.

A speedy and just disposition of this complaint seems very desirable.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Hirsch.

No. 90.]

DEPARTMENT OF STATE,
Washington, May 20, 1890.

SIR: Dispatch No. 123 of the 3d instant from your legation is received. Your note of the 1st instant to the minister of state, in the case of the assault on Messrs. Knapp and Reynolds by Moussa Bey in 1883, is regarded as a most excellent presentation of the matter as it stands at this juncture.

Awaiting the reply of the Porte,

I am, etc.,

JAMES G. BLAINE.

Mr. Hirsch to Mr. Blaine.

No. 131.]

LEGATION OF THE UNITED STATES,
Constantinople, May 30, 1890. (Received June 14.)

SIR: The question of interference with the book trade of the American missionaries, of which I have informed the Department in my No. 104, March 31 last, is still *in statu quo*.

The minister of public instruction, to whom the matter has been referred by the Grand Vizier, is preparing a reply, which, as I am informed, will shortly be handed in.

It is hoped that it will prove to be in harmony with our views.

In the meantime, however, complaint has been made to me of the burning of some of the books which had been seized during the past winter at Deir el Zore, in Mesopotamia, information of which has only lately been received here.

The value of the property destroyed was not very great, but after full consideration it was deemed best to demand payment; which I have done in a note addressed to the Sublime Porte, a copy of which is herewith inclosed, and which I hope will meet the approval of the Department.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure 1 in No. 131.]

Mr. Hirsch to Said Pasha.

No. 34.]

LEGATION OF THE UNITED STATES,
Constantinople, May 30, 1890.

MR. MINISTER: I beg to bring to the attention of Your Excellency a case of great hardship which has just been reported to me, which has caused the American missionaries much inconvenience and considerable pecuniary loss.

Some months ago they placed a number of books for sale into the hands of a local agent in Deir el Zor, in Mesopotamia. These books, with the exception of one, were all authorized by the Government, and the authorization was printed on the title-page of each volume. All the requirements of the law in the case had been complied with, and they were therefore entitled to its full and unqualified protection, just as fully as if the property had consisted of any other class of merchandise.

The local authorities, however, seized all the books, and, notwithstanding the authorization, retained them for quite an unreasonably long time, after which a portion was returned, while the balance of them were all burned.

Your Excellency will at once see that this is not only an unwarranted confiscation and inexcusable destruction of private property, but is a great injury as well to the business which these American citizens are peaceably following and in the pursuit of which they have the right, under the treaties, to claim the fullest protection.

I am fully persuaded that Your Excellency will take prompt measures to compensate my countrymen for the destruction of their property, which was of the value of 600 piasters, as well as to make other suitable reparation for the injury caused to their business, and to give such orders to your subordinate officials throughout the Empire as will prevent a like occurrence in the future.

Accept, etc.,

SOLOMON HIRSCH.

Mr. Hirsch to Mr. Blaine.

No. 134.]

LEGATION OF THE UNITED STATES,
Constantinople, June 4, 1890. (Received June 20.)

SIR: I have the honor to inclose herewith a copy of a note of the Sublime Porte in reply to my No. 27 of March 1, 1890, in the matter of the illegal arrest of Moses Angel and Shalom Kanstoroom. It will be seen that the Turkish version of the affair is in direct contradiction of that of Consul Gillman. I have lately had two interviews with His Highness, the Grand Vizier on the subject, but, in view of the wide difference in the two statements, have not been able to arrive at any result.

In order to ascertain, however, if possible, the facts as they transpired, a suggestion for another attempt to arrive at the truth was accepted by both the Grand Vizier and myself, and in harmony with it I have requested Consul-General Sweeney to instruct Consul Gillman to meet the governor of Jerusalem, and the two in an amicable spirit proceed jointly to investigate the case and report the findings, so as to enable the two Governments to settle the matter satisfactory to both. The governor of Jerusalem has received similar instructions from his Government, and I hope that our joint effort to ascertain the real facts may prove successful.

I inclose a copy of my dispatch to the consul-general and hope that my action will meet with your approval.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure 1 in No. 134.]

Said Pasha to Mr. Hirsch.

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS, May 17, 1890.

SIR: I have had the honor to receive the note Your Excellency kindly addressed to me on the 1st of March last, No. 27, relating to the ill treatment received by Messrs. Moses Angel and Shalom Kanstoroom, American citizens at Jerusalem.

The local authorities, questioned on the subject, declare that the complaints of the above named are totally void of foundation. Here are the facts just as they occurred: Moses Angel was in arrears for the payment of the tax on real estate. In spite of all the steps and summonses, he persisted in refusing, and not being satisfied to answer with abusive language in one of the last attempts of the fiscal agent, he threatened him some time later in the streets with a weapon he was carrying about him. Taken to the siege of authority, out of a conciliatory spirit, he was delivered to his consulate, and it was also out of courtesy only that Rechad Pasha at once advanced the amount of which Moses Angel was the debtor, and which has not yet been paid back.

Shalom Kanstoroom also has not suffered any molestation, and it is evidently in order to escape from the payment of his arrears of tax that he puts forward his claim, but Your Excellency is too just to allow these American citizens to use similar means in order to screen themselves from their obligations. Thus I am persuaded that you will issue orders in consequence to the consulate of the United States at Jerusalem.

Please accept, etc.,

SAID.

[Inclosure 2 in No. 134.]

Mr. Hirsch to Mr. Sweeney.

LEGATION OF THE UNITED STATES,
Constantinople, June 3, 1890.

SIR: In the matter of the illegal arrest of Moses Angel in Jerusalem, it appears that the reports made by Consul Gillman on the one side and the governor of Jerusalem on the other are as wide apart as ever, so far as the same relate to the facts of the case. It would appear from Angel's affidavit attached to the consul's report that he at his own house told the Turkish official that "if he would try to break his door down, he would shoot." No admission is made by him that he actually drew a revolver. On the other hand, the governor reports to the Grand Vizier that Angel drew a revolver on the official in the street near the bazaar without any provocation at the time.

It would seem that one or the other of these two high officials has been misinformed, or it may be that both have been somewhat misled by the respective interested parties.

The United States Government is desirous of ascertaining all the facts before taking any positive steps in the premises, and it seems that it should not be difficult to do so, provided both parties to the controversy are equally desirous of arriving at the truth.

I have therefore deemed it prudent to suggest that Consul Gillman and His Excellency the governor of Jerusalem should come together amicably and together endeavor to ascertain the real facts in this matter.

I have good grounds for believing that the governor will receive a like suggestion from the Central Government here, and it is to be hoped that their combined effort for the ascertainment of the facts will result in a report which will enable the two Governments to arrive at a speedy settlement of this matter, as well as that of the alleged arrest of Shalom Kanstoroom.

You will acquaint Consul Gillman with the contents of this and instruct him to act in accordance with the spirit of the suggestion herein contained.

I have, etc.,

SOLOMON HIRSCH.

Mr. Hirsch to Mr. Blaine.

No. 141.]

LEGATION OF THE UNITED STATES,
Constantinople, June 19, 1890. (Received July 5.)

SIR: I have the honor to inclose herewith a copy of a communication (No. 62) from Consul-General Sweeney, transmitting a dispatch (No. 131) from Consul Gillman, at Jerusalem, a copy of which is herewith inclosed, from which it would appear that on May 23 a riot took place in Jaffa, during which the Christians of that place were attacked by a Moslem mob carrying banners and "mostly armed with sticks." The papers before me, as will be seen, do not contain sufficient information to enable me to judge of the seriousness of the affair, nor do they give any information as to whether any American citizens have been molested, attacked, or injured.

I have therefore requested Consul-General Sweeney to obtain for the information of the legation as full an account as possible of the unfortunate occurrence, and especially to ascertain whether any American citizens have been in any way interfered with.

His Highness the Grand Vizier, in reply to my inquiry, assured me that the affair was a mere local brawl, and that order and tranquillity are maintained in Jaffa and throughout Palestine.

In order to further satisfy myself as to the character of the occurrence, I called upon His Excellency Baron de Calice, the Austrian ambassador, who informs me that his advices indicate that, while there may have been a design to start a serious disturbance, the outbreak was immediately put down by the authorities.

He does not regard the situation as in any way serious, but, on the contrary, satisfactory. Owing to his many years of service in this place and his opportunities for correct information, his opinion is entitled to much weight.

I have, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 141.]

*Mr. Sweeney to Mr. Hirsch.*CONSULATE-GENERAL OF THE UNITED STATES,
Constantinople, June 11, 1890.

SIR: I have the honor to inclose a copy of a dispatch from the consul at Jerusalem, concerning the riot in which the Christians were attacked by a Moslem mob at Jaffa on the 23d May, 1890.

I have, etc.,

Z. T. SWEENEY.

[Inclosure A.]

*Mr. Gillman to Mr. Sweeney.*CONSULATE OF THE UNITED STATES,
Jerusalem, May 26, 1890.

SIR: I have the honor to inclose herewith dispatch No. 168, dated the 26th instant, for transmission to the Department of State at Washington.

The character of the riot therein referred to as occurring at Jaffa on the 23d instant, in which the Christians were attacked by a Moslem mob carrying banners and mostly armed with sticks, was sufficiently serious to call for a consular meeting, in which the vice-consuls of Germany, Austria, and Italy were delegated to the governor to insist on his taking precautions to prevent such riots, and making him

responsible for the tranquillity of the population in general. It is to be noted that the local authorities were slow in interfering with the riot. I have just heard a rumor that a riot of even a more serious character than that reported as occurring on the 23d instant took place yesterday at Jaffa.

In this connection it may be proper for me to state that for some weeks past reports have reached me as to an unusually bitter enmity being displayed by Moslems to Christians in Jerusalem; and many have expressed to me the fear that in case of a dangerous outbreak the present governor of Jerusalem and Palestine would not have sufficient influence with the Moslems to control them, in which fear I confess to sharing.

I am, etc.,

HENRY GILLMAN.

[Inclosure B.]

Mr. Gillman to Mr. Wharton.

No. 168.]

CONSULATE OF THE UNITED STATES,
Jerusalem, May 26, 1890. (Received June 19, 1890.)

SIR: I have the honor to report that I have received information from our consular agent at Jaffa of the occurrence at that place, on the 23d instant, of riotous demonstrations against the Christians on the part of a Moslem mob carrying banners, and mostly armed with sticks, and with which the local authorities have been slow in interfering.

The character of the riot was such as to oblige the calling of a consular meeting at Jaffa, at which it was unanimously decided to delegate the vice-consuls of Germany, Austria, and Italy to the governor of Jaffa, to insist on his taking proper precautions to prevent such riots, and making him responsible for the tranquillity of the population in general.

In this connection, it may be proper for me to state that for some weeks past reports have reached me as to an unusually bitter enmity being displayed toward Christians on the part of the Moslems in Jerusalem; and many have expressed to me the fear that in case of a dangerous outbreak the present governor of Jerusalem and Palestine would have little or no influence with the Moslems to control them, and in which fear I confess to sharing.

I have just heard a rumor that on yesterday a riot of even a more serious character than that reported as occurring on the 23d instant has taken place at Jaffa.

I am, etc.,

HENRY GILLMAN.

Mr. Hirsch to Mr. Blaine.

No. 143.]

LEGATION OF THE UNITED STATES,
Constantinople, June 19, 1890. (Received July 3.)

SIR: By referring to dispatch 194 of my predecessor, Mr. Strauss, it will be noticed that the trustees of Robert College, desirous of erecting an addition of 100 by 50 feet to their college building, as also a two-story dwelling house for their president, requested the legation to ask for the necessary imperial iradé, which was finally granted, and was reported to the Department in the dispatch quoted.

Subsequently it was discovered that from some cause the iradé only covered the dwelling house of the president and not the much-desired addition of 100 by 50 feet to the college building proper.

Immediate steps were taken by the legation to supply the omission, and after much vexatious waiting and frequent disappointments the correction was finally made by an order of the council of ministers and the necessary papers transmitted to the proper authorities some weeks ago.

The college authorities have begun to prepare the ground for the much-needed improvement.

Iradés in the matter of schools are always among the most difficult things to obtain in this Empire, and it is no small gratification to know that we have been successful in this instance, much of the credit for which is due to the skill and patience of Mr Gargiulo, our dragoman.

I have, etc.,

SOLOMON HIRSCH.

Mr. Blaine to Mr. Hirsch.

No. 98.]

DEPARTMENT OF STATE,
Washington, June 20, 1890.

SIR: I have received your No. 131 of the 30th ultimo, in further reference to the American book trade in Turkey.

You inclose a copy of a note which you had just addressed to the Sublime Porte in reference to certain books which the missionaries had placed in the hands of an agent for sale, and which had been seized and burned. You say in your note, "These books," i. e., the books left with the agent, "were all authorized by the Government, with the exception of one," and you add, "The local authorities seized all the books, and, notwithstanding the authorization, retained them for a long time, after which a portion were returned, while the balance of them were all burned."

The Department regrets that nothing appears to show whether the destruction of books in this case was or was not confined to the unauthorized volumes, and also that nothing appears to show whether or not the possession by the agent of the unauthorized volumes was sufficient warrant under Turkish law for the seizure of all.

It appears to the Department that the points herein suggested should be made clear.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Hirsch.

No. 100.]

DEPARTMENT OF STATE,
Washington, June 25, 1890.

SIR: I have received your No. 134 of the 4th instant, by which it appears that the statements made by Moses Angel and S. Kanstoroom, the American citizens referred to in your No. 99, and those of the local authorities at Jerusalem, in respect to their arrest last November for alleged default in the payment of taxes, are quite at variance.

The steps you have taken to ascertain the facts are approved.

I am, etc.,

JAMES G. BLAINE.

Mr. MacNutt to Mr. Blaine.

No. 146.]

LEGATION OF THE UNITED STATES,
Constantinople, July 3, 1890. (Received July 26.)

SIR: For a fortnight past the town of Erzerum, in Asia Minor, has been the scene of a conflict between the Christian and Moslem inhabitants, provoked in the beginning by a search for concealed arms in the Armenian Church, for which the governor of Erzerum declared himself to have had orders from the capital.

The search was conducted in the presence of the bishop and the governor in a perfectly decent fashion, but the news had been spread, and

the Christians, regarding the search as an outrage and an insult to their religion, had collected in the courtyard or before the gates, and upon the exit of the soldiers from the church a conflict ensued. There is no doubt but the Christians attacked the soldiers. In the fighting, which lasted during that and several succeeding days, some 15 people were killed and 50 or 60 wounded.

The town was put practically in a state of siege, shops shut and business suspended, and the streets were the scene of repeated encounters between the mob and the troops.

The first reports, which were too vague to form a basis for action, have been confirmed by dispatches from the English consul, who, in the absence of an American consul, has charge of our interests there, the reports of the Italian, French, and Russian consuls to their embassies, and by the letters of the American missionaries to their house in Stamboul. There is a mere handful of Americans in Erzerum, made up of the teachers of a girls' school, some missionaries, and 8 or 10 citizens living there. I am assured that they have lived upon terms of unbroken cordiality with their Moslem neighbors, so it is only in case of an indiscriminate massacre of Christians that their danger becomes grave.

In concert with the English chargé d'affaires here and the embassies that had reports, this legation made three demands deemed imperative for the safety of American interests, which were accepted as reasonable by the Sublime Porte, and, I am assured by the Grand Vizier, have been acted upon.

They were as follows:

(1.) All arrests and investigation of complaints to be suspended until the excitement subsides, as at these trials the contending factions assemble and disorders are only aggravated.

(2.) The garrison of Erzerum being reasonably suspected of disaffection, that it be reinforced by a battalion from Erznegan, 5 days' march from there.

(3.) A cavalry patrol to be established in the country round about Erzerum.

Since these orders have been transmitted from the Porte no further news has come from the province.

I have asked for a detailed report from the teachers and missionaries in case they have been molested or their property destroyed.

I have, etc.,

FRANCIS MACNUTT,
Chargé d'Affaires ad interim.

Mr. Wharton to Mr. MacNutt.

No. 112.]

DEPARTMENT OF STATE,
Washington, July 25, 1890.

SIR: Referring to instruction No. 100 of the 25th ultimo, I have now to inclose a copy of a dispatch from our consul at Jerusalem, by which it appears that the steps taken by Mr. Hirsch, as set forth in his No. 134 of 4th ultimo, to arrive at a settlement of the complaints of Moses Angel and S. Kanstoroom against the authorities there have proved effective to a considerable degree. It is hoped that any surviving grounds of complaint will receive prompt and just treatment.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

[Inclosure in No. 112.]

Mr. Gillman to Mr. Wharton.

No. 173.]

CONSULATE OF THE UNITED STATES,
Jerusalem, June 23, 1890. (Received July 17.)

SIR: Referring to my dispatch No. 147 of the 23th of January last, and to the reply of the Department in dispatch No. 69 of the 11th March last, approving my action in the matter of the illegal arrest of our citizens, I have the honor to report that, in regard to the contradiction by His Excellency the governor of Jerusalem, to the Grand Vizier, of certain details in my statement, I have received, under date of the 3d instant, from the United States minister, the suggestion to meet the governor and amicably endeavor to ascertain the real facts in the matter, believing that His Excellency would receive a like suggestion from the Central Government at Constantinople.

The governor, on his return to the city after a lengthy absence, having informed me of his having received from his Government instructions to settle the matter amicably, a meeting was appointed at his residence for the 19th instant. On this occasion, after statements and counter statements on both sides, His Excellency, confining himself entirely to the subject of the arrest of Angel, gave me in that connection, I am happy to state, the most ample and unqualified apology, expressing the deepest regret at the occurrence, stating that it was altogether owing to the stupidity and ignorance of the official and soldiers, and that he had given the strictest orders there should be no repetition of the offense.

On my part, I could only express my satisfaction at his apology, so far as it went, and promised to report the matter to my Government.

On my referring to the details in those cases which had been called in question, His Excellency declined to enter on the subject, stating that he had received no instructions from his Government in that direction.

I took the opportunity to call his attention to the facts of the robberies of Angel and Kanstooroom on, respectively, the 16th and 25th of February last, in which the former lost goods to the value of \$160 and the latter had two horses stolen from him, neither of our citizens receiving any redress; that both these men considered the acts as being in retaliation for having brought complaints against the local government, and that, recently, Angel, according to his statement made me, owing to the delay in his obtaining justice, and fearing not only for his property but his life, he believing them not to be safe under the present government of Jerusalem, had disposed of his property at a sacrifice, and with his wife and children had returned to the United States.

The governor promised that more strict inquiries should be made into the robberies.

All these particulars have been reported to the consulate-general for the information of the United States minister.

I am, etc.,

HENRY GILLMAN.

Mr. MacNutt to Mr. Blaine.

No. 151.]

LEGATION OF THE UNITED STATES,
Constantinople, August 14, 1890. (Received August 28.)

SIR: In a dispatch numbered 56 of the 14th of November, 1887, this legation notified the Department of State of the conditions under which an iradé had been asked from the Sublime Porte for the foundation of St. Paul's Institute at Tarsus, in Asia Minor—a foundation undertaken by a committee of Americans under a charter granted by the State of New York.

I take pleasure in informing you that the council of ministers has decided favorably upon the matter, and in a recent unofficial conversation with the minister of public instruction he gave me assurance that the details of the conditions under which the iradé will be granted will receive his personal attention.

Upon the official assurance of His Highness the Grand Vizier, and upon the good will of the minister of public instruction, I base my hopes of a speedy and very satisfactory settlement of the question.

I have, etc.,

FRANCIS MACNUTT,
Chargé d'Affaires ad interim.

Mr. Hirsch to Mr. Blaine.

No. 171.] LEGATION OF THE UNITED STATES,
Constantinople, October 22, 1890. (Received November 6.)

SIR: The efforts made during the past year by this legation for the punishment of the notorious Moussa Bey for his outrageous and murderous attack in 1883 upon the missionaries Knapp and Raynolds seem finally to have been crowned with success.

An imperial iradé for his exile to Medina was issued this summer, but he, in some mysterious way, got information in time to take to flight. Exaggerated reports were set afloat in the community as to his destination, and it seemed to be currently believed that he had escaped into Russia, from whence it was said he would return to his native hills and at the head of his followers resume his career of pillage and murder. Measures were promptly taken by the authorities for his capture, which was effected about 3 weeks later in the vilayet of Broussa, at no very great distance from this city.

He was brought to Constantinople under guard, where he was confined until last Sunday, October 19, when he was embarked on a Turkish steamer destined for Jeddah, from whence he will be taken overland to Medina.

It is said that no man exiled to Medina ever returned.

Bahei Pasha (cousin of Moussa), governor of Scutari, in whose keeping he was at the time of his escape, has been removed and sent to Monastir.

It is to be regretted that punishment was not visited upon Moussa Bey more promptly, but even now I feel very certain that the execution of the sentence will have a beneficial effect for the American missionaries in the Empire, in so far as those in the interior who might be disposed to annoy and harass them will have been effectually taught that the United States Government will not permit those of its citizens who are peaceably following their vocation in this Empire to be in any way molested with impunity.

I have, etc.,

SOLOMON HIRSCH.

Mr. Hirsch to Mr. Blaine.

No. 177.] LEGATION OF THE UNITED STATES,
Constantinople, November 4, 1890. (Received November 20.)

SIR: Among the American missionary schools closed by the Turkish authorities some 6 years ago none seemed of greater importance to the missionaries than those at Mejdel Shems, Ain Kunyet Banias, and Hamath, which, all three of them, opened fully 20 years ago, had been in successful operation until closed as above stated, of which the Department has full information from more than one of my predecessors.

Notwithstanding repeated efforts for their reopening have been made by this legation, they have until now proved without avail.

The missionaries have been unceasing in their expressions of solicitude in the result of these efforts, which I renewed immediately upon my return here in September by again presenting the case to His Highness the Grand Vizier, and finally obtaining from him an assurance of entire willingness to inform himself as to its merits through the local authorities, as well as through papers on file in his department to which

I was able to call his attention, with the result finally that, notwithstanding decided objections continued to be made by the Damascus authorities, after various interviews running through about 6 weeks, His Highness sent several days ago by telegraph an order to the vali of Damascus to permit the opening of these three schools. We now have telegraphic news from the missionaries that the necessary orders have been issued by the vali to the local authorities in the respective villages, which, after so many efforts, will bring about the desired result.

The building at Mejdél Shems, which was formerly used for school and chapel purposes, is the property of the missionaries. It was closed up and sealed by the Turkish authorities about 6 years ago, as will be more particularly seen from a letter of September 24, 1890, addressed to me by Mr. George A. Ford, a copy of which is herewith inclosed for the information of the Department. The permit to repair the building, which has been going to ruin ever since its disuse, although applied for frequently, has never been granted until now. I am gratified to be able to inform the Department that it was issued at the same time with the permit for the opening of the schools mentioned in this dispatch, and that the missionaries are greatly elated at the result, as to the repair of the building as well as to the opening of the schools.

Mr. Ford in his letter makes a claim for damages on account of the decay of the building and other losses accruing, amounting in all to 220 Turkish pounds. Notwithstanding the difficulties always encountered in endeavoring to obtain payment on such claims, I called the Grand Vizier's attention to it with the observation that its justness entitled it to prompt consideration. In consequence of an interchange of opinion with Mr. Ford, and with his approval, I intimated to His Highness at a subsequent interview that the consent of the missionaries to the abandonment of the claim might be obtained by an early order for the permission of the necessary repairs of the building as well as the the opening of the schools. These orders having now been issued, as soon as their execution is satisfactorily accomplished, the claim will be considered as abandoned by this legation.

I am, etc.,

SOLOMON HIRSCH.

[Inclosure in No. 177.]

Mr. Ford to Mr. Hirsch.

CONSTANTINOPLE, September 30, 1890.

SIR: As a commissioner of the American mission in Syria, I have the honor to submit the following:

Six years ago two buildings owned by said mission and used by them for 25 years for school and chapel purposes, and also for residence of native helpers, in Mejdél Shems and Ain Kunyet Baniás (vilayet of Damascus) were forcibly sealed by the Turkish officials, who assigned no reason for doing so but the receipt, as they said, of vizieral orders.

This matter has been repeatedly presented to this legation in former years through the consulate at Beirut, as well as directly, and knowing that these flat-roofed houses, high up among the snows of Mount Hermon, would soon be ruined by disuse, the consul at Beirut gave written notice to the vali, in our behalf, that the Turkish Government would be held responsible for the damage that might come to the buildings through their being closed.

Last winter the building at Mejdél Shems fell in. The tottering portions that remain are a menace to the safety of the passers-by upon the street, and the fallen stones and timbers are an easy prey to poachers. We are therefore now constrained to claim redress for the losses we have suffered, and we ask, through your kind offices—

First. A clear and decisive vizierial order authorizing us to renew the fallen building. The vilayet always claims inability to deal with this question and refers us to Constantinople.

Second. The pecuniary settlement of damages to the extent of 220 liras, which is a low estimate, 100 liras for restoring the building and 20 liras a year for the 6 years on account of other losses accruing.

We have been obliged to hire houses for the native preachers and to incur other heavy expenses by reason of this seizure of our property, in addition to the almost intolerable ignominy of being so treated by the Government and the serious interference with our legitimate work.

These losses are very inadequately presented by the claim of 20 liras a year for both places.

When these buildings were sealed the native preacher living in the second story was obliged to move his family and goods through the windows by means of a ladder, and the officials then quartered their horses for months and stored the fodder in the basement, retaining all the keys.

As a result of the efforts of the legation, orders were sent declaring our right to the buildings for dwelling purposes, while strictly forbidding all worship or instruction in them.

The keys were then delivered to us, but, when the native preacher moved into the rooms, the officials came at once and threw his goods into the street from the upper windows and sealed the doors a second time. The same process was repeated later a third time.

Third. A clear and strong order authorizing us to reopen the primary schools closed in these two villages, where the children of a community of 150 Protestants have been deprived for 6 years of every form of instruction, as well as treble that number of Christian children of other sects who have always been dependent upon our schools. These two schools were the first in Syria to conform, more than 4 years ago, to all the requirements of the Ottoman school law, but since ours were closed new French schools have been opened without conforming to the regulations, and continue unmolested to the present day.

As this is my second visit to Constantinople upon this unpleasant business, and pressing engagements demand my speedy return, I trust that I may obtain a speedy settlement.

I am, etc.,

GEO. A. FORD.

Mr. Blaine to Mr. Hirsch.

No. 132.]

DEPARTMENT OF STATE,
Washington, November 17, 1890.

SIR: The Department was glad to be informed by your No. 171 of the 22d ultimo that the Government of Turkey had finally taken action in the case of the alleged criminal Moussa Bey, which will probably preclude further complaint of the American missionaries in the quarter where he lived. Notwithstanding his technical acquittal on more than one occasion, this Government entertained no reasonable doubt that the charges brought by the missionaries were well founded and justified the sentence of banishment to Arabia, which has been carried into effect.

I am, etc.,

JAMES G. BLAINE.

VENEZUELA.

Mr. Scruggs to Mr. Blaine.

No. 63.]

LEGATION OF THE UNITED STATES,
Caracas, December 21, 1889. (Received December 30.)

SIR: I have just received from the Venezuelan minister for foreign affairs the note and copy of protest which I inclose, from which you will see that the British colonial government of Demerara has taken formal possession of the principal mouth of the Orinoco River and declared the town of Barima a British colonial port.

I have, etc.,

WILLIAM L. SCRUGGS.

[Inclosure in No. 63.—Translation.]

Mr. Casanova to Mr. Scruggs.

MINISTRY OF FOREIGN AFFAIRS,
Caracas, December 20, 1889.

MR. MINISTER: A new act of usurpation of Venezuelan territory consummated by the governor of Demerara has obliged the Government of the United States of Venezuela to make the accompanying protest, which I have the honor to transmit for Your Excellency's information and that of the Government you so worthily represent in this capital.

I improve, etc.,

P. CASANOVA.

[Inclosure.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Caracas, December 16, 1889.

In the periodical called the Daily Chronicle, of Demerara, British Guiana, is a decree by the colonial governor, Sir Charles Bruce, dated the 4th December, 1889, in which Barima, or the great mouth of the Orinoco River, is declared to be an English colonial port, and the line known as "the Shomburgk survey" is assumed to be the boundary between British and Venezuelan Guiana.

Now, according to the declaration of Lord Aberdeen, made to Señor Fortique, Venezuelan minister in London, Shomburgk was never authorized to occupy any portion of our territory—not even that inhabited by tribes of wild Indians; that the stakes and signals set up by him were intended merely to indicate a line which should be the object of future discussion and negotiation between the two nations; and that it was not known that any stations or military posts had been established or that the British flag had been raised over the disputed territory. This was in 1841, and the Venezuelan Government soon procured the removal of the marks and posts indicated.

Now, however, following up its system of former usurpations, the Government of Demerara does not hesitate to declare Barima a colonial port, to create a police station there, and to take possession of the neighboring country; all without leave or license and in open contempt of all those principles of justice which govern the international relations of civilized nations.

Therefore, the Government of the United States of Venezuela is under the necessity of protesting, and it does hereby formally and solemnly protest, against the acts of the government of Demerara in declaring Barima a colonial port; and it does this in the same manner and form expressed in its protest of February 27, 1887, and of the 15th June and 29th October, 1888, against former usurpations of Venezuelan territory.

It protests, moreover, against the act of jurisdiction which the same colonial government has recently pretended to exercise over the territory of Venezuela by authorizing the construction of a road which shall put Demerara in communication with the federal territory of Yuruary. That territory belongs exclusively to the Republic and is under its sole and exclusive jurisdiction, it having never been considered disputed territory between Venezuela and Great Britain. Moreover, the last-named power is prohibited from claiming or occupying it by the very terms of the agreement which it itself proposed and entered into with Venezuela in 1850 through Mr. Bedford Hinton Wilson, then chargé d'affaires of Great Britain in this capital.

P. CASANOVA.

Mr. Scruggs to Mr. Blaine.

No. 82.]

LEGATION OF THE UNITED STATES,
Caracas, March 6, 1890. (Received March 21.)

SIR: By constitutional provision, the national legislature of Venezuela is composed of two houses, one of senators and one of representatives. The senators are elected for the term of 4 years by the legislatures of the several States, each State being entitled to 3 senators and to an equal number of *suplentes*, or alternates. The alternates have no functions except in the case of death, inability, or absence of their principals. Only native-born citizens 30 years of age or upwards are eligible to either position. There are nine constituent States of the federal union, and consequently 27 senators and as many alternates.

The representatives are elected for 4 years by popular vote, and for this purpose there is no restriction of the suffrage, no qualifications other than age and sex. It is only necessary that the voter be a male citizen 18 years of age, and all persons born or naturalized in the country are citizens; so, too, are all residents who were born abroad of Venezuelan parents, and likewise all resident natives of other Spanish American countries who "manifest a desire to become citizens." There is one representative and one alternate for every 35,000 inhabitants, and an additional member is allowed for every fraction of 35,000 over 15,000.

The meeting of the two houses takes place annually on the 20th of February, "or," to adopt the language of the constitution, "as soon thereafter as possible." The presence of two-thirds of each house is necessary to a quorum; but less than a quorum may organize as a "preparatory commission" and formulate measures for approval by a quorum of either house after organization. The organization is effected by the election of a presiding officer and subordinate officers, the appointment of standing committees, etc. The presiding officers of the senate and house are styled, respectively, "the president" and "vice president of Congress." The sessions are open and public, but may be made secret by a majority vote in each house. All voting, whether in open or in secret session, is secret and by ballot. The constitutional limit of the session is 60 days, but may be extended to 90 by a majority vote in both houses.

The new Congress met in Caracas on the 20th ultimo. There being less than a quorum present, those who answered to their names organized themselves into a preparatory commission and proceeded to formulate business for the session. On the 25th, there being a quorum present, both houses were organized and the session formally declared open. On the 3d instant the President read his annual message (dated the 1st) to the houses in joint session.

The message (two copies of which I transmit under separate cover) is of great length and treats mainly of local and domestic matters.

The President congratulates the country upon the fact that during the past year there has been a settled peace. There has been a grand "political transformation," but without war or bloodshed, "without even riot or disorder of any kind." He urgently recommends, however, that greater attention be paid to the coast defenses and to "the strengthening and improving of the military and naval forces;" says the financial condition of the country is satisfactory; that the interest on the public debt has been punctually paid and the debt itself materially reduced; and that, with the exception of the old difficulty with Great Britain, the relations of the Venezuelan Government with foreign powers are amicable and satisfactory. He expresses regret, however, that, in spite of the constant efforts made in London and in Washington looking to some just and satisfactory solution of the British Guiana controversy, nothing has been accomplished, and that the colonial authorities of Demerara are constantly encroaching upon Venezuelan territory.

Of the International Conference of American States now in session in Washington he says, "all the free states of both the Americas responded to the call of the great Republic, and it is hoped that a Congress, such as the world has never before seen, may be productive of beneficial results to all the countries represented;" and that "it is a consoling thought to see friendly arbitration gaining in favor as a means of settling international disputes."

The reading of the message occupied nearly 3 hours, and was listened to with profound attention, with frequent applause from the galleries and from the benches of the members.

I have, etc.,

WILLIAM L. SCRUGGS.

Mr. Scruggs to Mr. Blaine.

[Extract.]

No. 98.]

LEGATION OF THE UNITED STATES,

Caracas, April 25, 1890. (Received May 3.)

SIR: The recent occupation by a British police force of a large area of territory south and west of the limits hitherto claimed by England as the boundary of her Guianian possessions is creating grave apprehensions in Government circles here.

It will be remembered that Venezuela has steadily maintained, since 1836, that the Essequibo River is the limit of British possessions. It will be remembered also that in the earlier stages of this controversy England claimed only to the Pumaron. Subsequently she extended her claim westward to the Gulf of Morajua and southward to the River Guaima. Later on, taking advantage of the unsettled political condition of the country, she further extended her claim, first to the River Barima, then to Braza Barima (including the fertile island of that name), and finally southward up the main channel of the Orinoco delta, as far as the Amacura, the starting point from westward of what is known as the "Schomburgk line."

This line extends in general direction southeastward to the Otomonga, near its junction with the Cuyuni, between the sixtieth and sixty-first meridians; thence southward in general direction to the head waters of the Uriman, or Little Coroni (one of the navigable affluents of the Orinoco), between the sixty-first and sixty-second meridians; thence

northward to the junction of the Maju and Tacutu Rivers, tributaries of the Branco; and thence eastward along the margin of the Tacutu and beyond its source to the head waters of the Essequibo.

Never, I believe, until quite recently has England claimed this line as the southern boundary of her colonial possessions. On the contrary, she has more than once explicitly disclaimed any such pretension. Yet she now not only occupies the entire territory north of this line, but has taken possession of large districts south of it. More than this, she now lays claim to almost the entire territory north of the Caroni and east of the Orinoco below the mouth of the Caroni. This includes, of course, the vast territory of Yuruáry, wherein are situated the rich and productive gold mines of Oaratal and Colloa.

Of course, the Venezuelan Government is not prepared to resist these bold encroachments; otherwise they would hardly be attempted. The Government here has been endeavoring for more than 6 months past to reestablish diplomatic relations, restore the *status quo* of 1886, and have the question of boundary referred to arbitration, but without the slightest prospect of success. The British Government makes it a condition that Venezuela relinquish her claim to all territory north of the Schomburgk line, and that arbitration be limited to disputed territory south of that line.

Hence the difficulty in the way of reestablishing diplomatic relations, of restoring the *status quo*, and thus bringing about a permanent adjustment by means of friendly arbitration. It can now be done, I apprehend, only by the friendly intervention of some neutral power which England respects.

I have, etc.,

WILLIAM L. SCRUGGS.

Mr. Blaine to Mr. Scruggs.

No. 81.]

DEPARTMENT OF STATE,
Washington, May 2, 1890.

SIR: Referring to your No. 53 of November 16 last and your No. 63 of the 21st of the succeeding month, both relating to the question of the disputed boundary between Venezuela and British Guiana, I have to inclose copy of my telegram,* dated yesterday, instructing Mr. Lincoln to use his good offices to bring about the resumption of diplomatic relations between Great Britain and Venezuela, with a view to the arbitration of the boundary question.

I have informed the Venezuelan minister at this capital of the contents of this telegram. Copies of your Nos. 53 and 63 have been sent to Mr. Lincoln.

I am, etc.,

JAMES G. BLAINE.

Mr. Scruggs to Mr. Blaine.

No. 100.]

LEGATION OF THE UNITED STATES,
Caracas, May 3, 1890. (Received May 15.)

SIR: Since the date of my No. 98 of the 25th of April last I have procured a "sketch map" of the disputed Guianian territory as prepared by authority of the British Government.

*See correspondence with the legation of the United States at London.

This map shows the extreme claim by the British Government, as set forth January 10, 1880; the provisional line within which it refused to admit any question of title October 21, 1886, and also the boundary respecting which it intimated a willingness to submit to arbitration April, 1888.

It will be observed, however, that the claim thus officially announced does not differ materially from that indicated in my former dispatch, and that the vital point in dispute, namely, the command of the great mouth of the Orinoco, is precisely the one which Great Britain now refuses to submit to friendly arbitration.

I have, etc.,

WILLIAM L. SCRUGGS.

Mr. Blaine to Mr. Scruggs.

No. 85.]

DEPARTMENT OF STATE,
Washington, May 19, 1890.

SIR: I inclose, for your information and the files of your legation, copy of Mr. Lincoln's No. 229* of the 5th instant, reporting his conversation with Lord Salisbury in regard to the renewal of diplomatic relations between Great Britain and Venezuela and the settlement of the boundary dispute by arbitration.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Scruggs.

No. 88.]

DEPARTMENT OF STATE,
Washington, May 21, 1890.

SIR: I have received your No. 100 of the 3d instant, inclosing a map showing the British claims to the territory in dispute between the Governments of Great Britain and Venezuela. Copies of your dispatch and of its inclosure have been transmitted to our minister at London.

I am, etc.,

JAMES G. BLAINE.

Mr. Scruggs to Mr. Blaine.

No. 106.]

LEGATION OF THE UNITED STATES,
Caracas, June 7, 1890. (Received June 20.)

SIR: A special commissioner of the Venezuelan Government to that of British Guiana has just returned hither after an extensive tour of observation through the territory recently occupied by the British colonial authorities of Demerara. He reports the occupation as "a fact, formally and fully accomplished." The governor of Demerara told him plainly that, "although Venezuela claimed this territory, it would never be given back." The position and extent of this territory is fully shown in my Nos. 98 and 100 of April 25 and May 3 last.

* See correspondence with the legation of the United States at London.

According to the commissioner, the transformation in Barima is complete. In 1883 "there was not a sign of human habitation" between the Rivers Barima and Amacura. "Now there are upwards of fifty English settlements, all in a most flourishing condition." The soil is of inexhaustible fertility, admirably adapted to sugar and cotton culture, and the forests abound with richest and rarest cabinet and dye woods. The British have established a port of entry and a number of large warehouses at Barima Point, "thus affording increased facilities for smuggling European goods into the Venezuelan coast and river ports."

In other portions of the disputed territory rich gold mines have been recently discovered and opened. These are worked at comparatively small expense and "yield enormous profits." Hence, owing to the excitement thus caused and the extraordinary inducements held out to immigrants, the country is being rapidly settled up.

The Indians of the far interior receive special attention from the Demerara government. They are encouraged to visit and trade with the new settlements. They are not required to pay taxes or port dues of any kind, and when they visit the settlements they are protected from "sharpers" by a special police force, whose business it is to "see that they are not cheated." They seem greatly pleased with these attentions, and already a profitable trade has sprung up between them and the new settlements. They are acquiring the English language and seem contented and happy in their new relations.

The trade between the new settlements and Demerara has already become quite extensive and is daily increasing. It is carried on by means of small coasting and river steamers, operating under subsidies from the British and colonial governments, and, to adopt the language of the commissioner, the rich valleys of the Pumaron, Guaima, Barima, and Amacura "have become the granaries of British Guiana."

Acting under instructions from his Government, the commissioner made formal written protest against all these encroachments, and against the exercise of any and all British authority in the territory named; but little or no attention was paid to it.

In this connection I beg to acknowledge the receipt of your instruction No. 85, dated the 19th May, inclosing copy of Mr. Lincoln's No. 229 of the 5th, in which he reports his conversation with Lord Salisbury in regard to the renewal of diplomatic relations between Great Britain and Venezuela and the settlement of the boundary dispute by arbitration. I have taken the liberty to communicate, informally, the substance of Mr. Lincoln's dispatch to the Venezuelan minister for foreign affairs.

I have, etc.,

WILLIAM L. SCRUGGS.

Mr. Blaine to Mr. Scruggs.

No. 97.]

DEPARTMENT OF STATE,
Washington, June 21, 1890.

SIR: I have to acknowledge the receipt of your No. 106 of the 7th instant, in relation to the Guiana boundary dispute, and to state that a copy of your dispatch has been forwarded to your colleague at London, for his information.

I am, etc.,

JAMES G. BLAINE.

CORRESPONDENCE WITH THE LEGATION OF VENEZUELA
AT WASHINGTON.*Mr. Peraza to Mr. Blaine.*

[Translation.]

LEGATION OF VENEZUELA,
Washington, February 17, 1890.

SIR: The undersigned has the honor to present his most respectful compliments to the Hon. James G. Blaine, and to remark that he deeply regrets the painful causes that occasioned the postponement of the interview which was to be granted to him on the 12th of December last, in which the undersigned hoped to receive some assurance with regard to the generous steps of the United States Government designed to put a stop to the conflict in which the territorial rights of Venezuela are involved by reason of the possession which has been forcibly taken of a part of Venezuelan Guiana by the Government of Great Britain.

Since that time matters have been daily becoming more serious, and have now reached an extremely critical and alarming stage, and, although the undersigned still proposes to solicit, at a future day, an interview on this subject, he nevertheless deems it necessary for him, in view of the gravity of the circumstances, to give a statement of the existing state of things in the present note, and once more to request the United States Government to use its good offices (which will be strengthened by its powerful influence) in order to bring about a settlement of the dispute between Venezuela and Great Britain by the means which international law and the spirit of modern civilization have provided for such cases.

The Honorable Mr. Blaine is already aware that agents of the Government of Great Britain have taken possession unduly and forcibly of the port of Barima, at the mouth of the Orinoco, which up to that time had been possessed by Venezuela, whose title to it was indisputable. It is only necessary to cast a glance at the map of South America in order to see the vast importance of this aggressive step of Great Britain. When a European maritime power has once obtained a foothold at Barima, it absolutely controls the Orinoco River and its numerous affluents. Through that artery it may penetrate as far as the Rio de la Plata. Venezuela is therefore not the only American republic that is at the mercy of the naval power that gets control of the Orinoco River. Colombia, Peru, Bolivia, Brazil, the Argentine Republic, and Uruguay are likewise at its mercy. This is not a danger that threatens Venezuela alone; it threatens all America, and is, perhaps, more serious than the possession of the Panama Canal by a European power, since it would render nugatory the efforts which, through the initiative of the United States Government, are now being made by the nations of America to draw closer their family bonds, to unify their interests, and to have one and the same destiny in future. All these aspirations, which are based upon the continental idea which is now engaging the attention of the International American Conference, might be rendered fruitless by the presence and control in the Orinoco of so formidable a naval power as is Great Britain. Her vessels would enter the mouth of that river and would carry to the great centers of population her productions, her ideas, and her exclusive interests.

This, in the opinion of the undersigned, explains the haste with which Great Britain has acted in taking possession of the territory of

Venezuela lying on the Orinoco. Great Britain wishes to be able to control that immense fluvial artery when the project of the unification of America is accomplished; this was understood by the Government of Venezuela when it appealed to that of the United States, asking that its influence might be exerted, not only in behalf of the rights of Venezuela, but also in behalf of American rights and interests, which were jeopardized by the British invasion on the Orinoco.

The undersigned has recently received advices from his Government, informing him that a British squadron has already arrived at Barbados, and that three steamers belonging to that squadron, viz, the *Emerald*, the *Bellerophon*, and the *Partridge*, have been ordered to Demerara; it was also positively asserted in Venezuela that there were British forces already at Barima; all of which shows that this act of invasion is not to be attributed to the colony, but that it is a measure adopted by the Government of the mother country.

These events, as Your Excellency will readily understand, have excited the people of Venezuela still more than they were already excited, especially in the towns situated near the scene of the conflict, and it is impossible to foresee the consequences to which they may give rise.

The Government of Venezuela is unwilling to abandon the hope which it bases upon the sincere friendship of that of the United States, that the latter will request Great Britain to consent to submit its dispute with Venezuela to arbitration, and it has consequently instructed me, with a view to bringing about this result, to beg Your Excellency with redoubled earnestness to lend the good offices of the United States Government, which is now more than ever the only source from which Venezuela can hope for assistance, since the nations of Europe, feeling irritated at the attitude which has been taken by the republics of South and Central America with the design of drawing closer their commercial relations with the United States, will not be willing to give any support to Venezuela, not even the moral support of their sympathy, inasmuch as a European power is concerned in the dispute, which shares with them the apprehensions that are felt by them all in consequence of the commercial and fraternal union with this Republic which is now being established through the American International Conference.

The undersigned therefore feels confident that when Your Excellency shall have taken into consideration the critical state of this question, the imminence of a conflict, and the reasons which the undersigned has had the honor to set forth in the present note, you will deign to act in compliance with this request, and that you will inform the Cabinet of St. James that the Washington Cabinet sincerely desires that the present controversy between Great Britain and Venezuela may be settled by the means that are now recognized and made use of by civilized nations for the decision of questions of this kind in accordance with reason and justice.

The same sentiments and desires were expressed by the President of the United States in his message of December 3, 1889, and the undersigned believes that if the idea which they involve were directly manifested by Your Excellency to the Government of Great Britain, it would be sufficient to induce that nation to assent to a peaceful settlement whereby all just rights would be guaranteed; for the voice of the United States has always been listened to with deference by the European powers, especially when this nation has spoken in behalf of the legitimate interests of America, which it has defined in a doctrine that now forms part of its common law.

With sentiments, etc.,

N. BOLET PERAZA.

Mr. Peraza to Mr. Blaine.

[Translation.]

LEGATION OF VENEZUELA,
Washington, April 24, 1890.

SIR: The undersigned has the honor to present his respects to the Hon. James G. Blaine, and regrets to inform him that he has this day received advices from his Government apprising him that Dr. Modesto Urbaneja, minister of the Republic in France, who visited London for the purpose of endeavoring to secure the restoration of diplomatic relations between Venezuela and Great Britain, relying to this end upon the mediation of Mr. Lincoln, the United States minister, was unable to accomplish his purpose, for the reason that His Excellency Mr. Lincoln has not received the instructions which the Honorable Mr. Blaine promised to send him for that purpose during the interview in which the undersigned had the honor to speak to His Excellency on this and other subjects on the 20th of February last.

The undersigned, having again received urgent instructions from his Government to remind the Honorable Mr. Blaine of the instructions so generously promised by him, hereby does so, with the remark that the circumstances are extremely critical for Venezuela, which sees on the one hand the British forces persistently invading her territory, and on the other does not see any effective demonstration on the part of the United States Government in the way of mediation, which has been so earnestly solicited from it, and which it has so unequivocally promised.

The undersigned has informed his Government of the repeated promises made to him by the Honorable Mr. Blaine that, when once the plan of arbitration should have been adopted by the conference, the friendly steps of the United States Government near that of Great Britain would be begun, with the view of inducing the latter to consent to a peaceful settlement of the boundary question between it and Venezuela, and the undersigned consequently entertains the hope that when the Honorable Mr. Blaine shall communicate to the Cabinet of St. James the wish expressed by the International American Conference that disputes between the American republics and the nations of Europe may be settled by arbitration, that favorable opportunity may be taken by the United States Government to use its good offices to the end that the controversy may be brought to a speedy and reasonable termination by that means.

The undersigned will consider himself highly honored if the Honorable Mr. Blaine will favor him with a satisfactory reply to this note, which result is awaited by his Government with impatience and anxiety, owing to the gravity of the circumstances.

The undersigned, etc.,

N. BOLET PERAZA.

Mr. Blaine to Mr. Peraza.

DEPARTMENT OF STATE,
Washington, May 2, 1890.

SIR I have the honor to acknowledge the receipt of your note of the 24th ultimo, relative to the question of the disputed boundary between Venezuela and British Guiana.

I yesterday instructed our minister at London by telegraph to use his earnest good offices with Her Majesty's Government to bring about a resumption of diplomatic relations between Venezuela and Great Britain, as a preliminary step toward negotiation for arbitration of the dispute.

I directed Mr. Lincoln to suggest to Lord Salisbury that an informal conference of representatives of Venezuela, Great Britain, and the United States be held here or in London, with a view to reaching an understanding on which diplomatic relations may be resumed. I further stated that our attitude in such a joint conference would be solely one of impartial friendship towards both Governments.

Accept, etc.,

JAMES G. BLAINE.

Mr. Peraza to Mr. Blaine.

[Translation.]

LEGATION OF VENEZUELA,
Washington, May 5, 1890.

SIR: The undersigned has the honor to acknowledge with the greatest satisfaction the receipt of Your Excellency's note of the 2d instant, whereby you were pleased to inform him that you had sent instructions by telegraph to the United States minister at London to use his good offices with the Government of Her Britannic Majesty, with a view to securing the restoration of diplomatic relations between Venezuela and Great Britain, as a preliminary step towards the negotiation of an arbitration convention for the settlement of the dispute. Your Excellency added that you had authorized Mr. Lincoln to suggest to Lord Salisbury that an informal conference of the representatives of Venezuela, Great Britain, and the United States be held, either at Washington or at London, for the purpose of reaching an agreement with regard to the restoration of diplomatic relations, the attitude of the United States to be, in said conference, one of impartial friendship.

The undersigned expects the most satisfactory results from the step which Your Excellency has just taken in this important matter, for one of the circumstances that increased the difficulties of Venezuela in the conflict in which she is now engaged with Great Britain, and that which gave most encouragement to Her Majesty's Government in its invasions of Venezuelan territory, was the belief entertained by the British Government that the United States would abandon Venezuela and would never use their fraternal mediation in her behalf.

That mediation having now been initiated by the decisive instructions sent by Your Excellency to the United States minister at London, and Great Britain being now aware that the United States are speaking not only for themselves in this matter, but that they are also voicing the fraternal desire of all the nations of the American continent, solemnly and explicitly expressed at the International American Conference, it is to be hoped that the British Government will modify its attitude and will be inclined to accept the amicable and peaceful means that are offered to it in the name of the high principles of humanity and justice for the settlement of its controversy with Venezuela.

The undersigned, being convinced of the signification and high importance of the noble step taken by Your Excellency, informed his Gov-

ernment thereof by telegraph without delay, and he has this moment received the reply of the President of Venezuela, which was sent by telegraph, and which is as follows:

Congratulations. Good for Venezuela. Thanks to Mr. Blaine.

ANDRUEZA PALACIOS.

The undersigned has the honor to communicate this to the Honorable Mr. Blaine, for the satisfaction of the United States. While Venezuela was already bound to this country by the ties of traditional friendship, she is so now by those of deep gratitude.

With sentiments, etc.,

N. BOLET PERAZA.

Mr. Blaine to Mr. Peraza.

DEPARTMENT OF STATE,
Washington, May 19, 1890.

SIR: I have the honor to inform you that I have received a dispatch from our minister at London, reporting that, in compliance with my instructions, of the transmission of which I advised you on the 2d instant, he had an interview with Lord Salisbury in regard to the renewal of diplomatic relations between Venezuela and Great Britain and the settlement of the boundary dispute by arbitration.

After listening to the views of this Government, His Lordship informed Mr. Lincoln that he desired to consult with the colonial office before replying to his suggestions.

Accept, etc.,

JAMES G. BLAINE.

Mr. Peraza to Mr. Blaine.

[Translation.]

LEGATION OF VENEZUELA,
Washington, May 20, 1890.

SIR: I have the honor to acknowledge the receipt of Your Excellency's note of yesterday, whereby you were pleased to inform me that you had received a dispatch from the United States minister at London, in which he stated that, in pursuance of the instructions which Your Excellency had sent him, he had an interview with Lord Salisbury in regard to the restoration of diplomatic relations between Venezuela and Great Britain and the settlement of the boundary question by arbitration, and that Lord Salisbury, when apprised of the views of the United States Government, had informed Mr. Lincoln that he wished to consult the colonial office before replying to his suggestions.

I have already transmitted this news to my Government by cable. Although it does not contain a final decision, I do not doubt that it will be very pleasing to my Government, because it informs it of what it so eagerly desired, viz, that the United States Government has begun to lend its paternal good offices in this question with a decision that can not fail to be crowned with success. It will be a glorious thing for the United States Government to restore to this whole continent the tranquillity which it does not now enjoy, on seeing the sovereignty of a sister republic menaced by a European power. Such a result, added to those which have just been accomplished by the

International American Conference, will immortalize the present administration, which will forever be blessed by the nations of South America.

The pretensions of the Government of Great Britain have now reached an extreme which can not be properly described in the courteous language of diplomacy. Your Excellency will judge of their enormity by merely running your eye over the two maps which I have the honor to transmit to you. One of these is a photographed copy of a map published by British engineers in 1817, the original of which is in the library of the New York Historical Society, and the other is the map presented by Lord Salisbury to Dr. Modesto Urbaneja, our minister, on the 10th of February last, with the three demarcations of boundaries which Lord Salisbury says constitute the conditions necessary to the settlement of the question.

These three demarcations are the fanciful line drawn by Schomburgk, in red ink, which takes possession of one of the mouths of the Orinoco, and concerning which Lord Salisbury says that there can be no discussion with regard to titles; the second, in green ink, extending still further into Venezuelan Guiana, concerning which Lord Salisbury says that arbitration may be accepted; and the third line, in violet-colored ink, which extends as far as the extreme interior course of the Caroni, not far from the capital of our Guiana, and which constitutes the extreme claim of the British Government.

In 1817, 3 years after the conclusion of Great Britain's treaty with Holland, whereby she first entered into possession of Dutch Guiana, the boundary between which and Venezuelan Guiana is the Esequibo River, the English laid claim to but a comparatively small territory in our Guiana in order to establish themselves at Cape Nassau, on the Atlantic coast, the possession of which territory was always disputed by Venezuela. The map to which I refer, which was published in Edinburgh in 1817, gives that demarcation.

I now beg Your Excellency to compare that claim with the three claims of Lord Salisbury's map, and you will be convinced that they are wholly without foundation, for a line which advances into neighboring territory as years roll by may be anything but the result of rights or titles.

So unpleasant was the impression which these inconsistent claims on the part of Her Britannic Majesty's Government made upon the United States Government in 1888 that, although they were not then so great as they now are, they induced Mr. Bayard to write to Mr. Phelps as follows:

In the course of your conversation you may refer to the publication in the London Financier of January 24 (a copy of which you can procure and exhibit to Lord Salisbury) and express apprehension lest the widening pretensions of British Guiana to possess territory over which Venezuelan jurisdiction has never heretofore been disputed may not diminish the chances for a practical settlement.

If, indeed, it should appear that there is no fixed limit to the British boundary claim, our good disposition to aid in a settlement might not only be defeated, but be obliged to give place to a feeling of grave concern.

Venezuela hopes that, as the case is now still more aggravated, and as the influence of the United States has been strengthened by the bonds which it has just established with its sister nations of America and by the earnestness with which these nations have manifested their desire that the question between Venezuela and Great Britain may be decided by arbitration, the steps taken by the Honorable Mr. Blaine will be more successful than those of his predecessor.

With sentiments, etc.,

N. BOLET PERAZA.

Mr. Adee to Mr. Peraza.

DEPARTMENT OF STATE,
Washington, July 9, 1890.

MY DEAR SIR: It gives me pleasure to inform you that the Department is in receipt of a dispatch from our minister at London, dated the 25th ultimo, in which he states that, in compliance with the Department's telegraphic instructions, he requested Señor Pulido, the special envoy from Venezuela to Great Britain, to meet him with a view to arranging the former's presentation to Lord Salisbury. Señor Pulido called on Mr. Lincoln on the 21st ultimo and informed him that he had, on the previous day, formally notified Sir Thomas Sanderson, assistant undersecretary of state for foreign affairs (by whom the recent note to Señor Urbaneja was signed), of his mission, and had requested an appointment to present his credentials and the response of the Venezuelan Government. As he was still desirous of being presented to Lord Salisbury, Mr. Lincoln had an interview with His Lordship, who stated that, while Señor Pulido was in negotiation with Sir Thomas Sanderson, it would, nevertheless, be quite agreeable to him to receive him. Mr. Lincoln accordingly made the presentation on the 25th ultimo. The conversation was brief, and referred only in general terms to the pending controversy, the hope being expressed by both Lord Salisbury and Señor Pulido, in the most courteous manner, that some satisfactory arrangement would soon be reached. It was understood that Señor Pulido was to continue his negotiations with Sir Thomas Sanderson. Señor Pulido expressed his gratification to Mr. Lincoln at the latter's action in the matter.

I am, etc.,

ALVEY ADEE,
Acting Secretary.

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